

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)

JOHN P. FLANNERY, and)
JAMES D. HOPKINS)

) ADMINISTRATIVE PROCEEDING
) FILE NO. 3-14081
)
)

JOHN PATRICK (“SEAN”) FLANNERY’S MOTION FOR LEAVE TO FILE
MOTION FOR SUMMARY DISPOSITION

Pursuant to SEC Rule of Practice 250(a), John Patrick (“Sean”) Flannery respectfully moves for leave to file the enclosed Motion for Summary Disposition and accompanying memorandum. In support of his motion, Mr. Flannery states that, based on undisputed facts in the investigative record the SEC staff has assembled, he is entitled to summary disposition as a matter of law without the need to expend further time, cost, and other resources on an evidentiary hearing. These reasons are fully set forth in the enclosed memorandum in support of Mr. Flannery’s Motion for Summary Disposition.

Dated: December 23, 2010

Respectfully Submitted,

Mark W. Pearlstein PMA w/ permission

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JOHN PATRICK ("SEAN") FLANNERY'S MOTION FOR SUMMARY DISPOSITION

For the reasons set forth in the accompanying memorandum, John Patrick ("Sean") Flannery respectfully moves for summary disposition of all charges the Securities and Exchange Commission has brought against him in this proceeding, pursuant to SEC Rule of Practice 250.

Request for Oral Argument

Mr. Flannery respectfully requests that oral argument be heard on this motion, so that counsel for Mr. Flannery may address any questions or concerns the Court may have after reading the parties' written submissions.

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MEMORANDUM IN SUPPORT OF JOHN PATRICK (“SEAN”) FLANNERY’S
MOTION FOR SUMMARY DISPOSITION

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John Patrick (“Sean”) Flannery respectfully submits this memorandum in support of his Motion for Summary Disposition, pursuant to SEC Rule of Practice 250. The SEC has charged Mr. Flannery in connection with two letters that State Street Global Advisors (“SSgA”) sent to its clients during the mid-2007 market meltdown concerning a fixed income fund in which some of their holdings were invested. Specifically, the SEC has charged Mr. Flannery with violating § 17(a)(1) of the Securities Act and § 10(b) of the Exchange Act (along with Rule 10b-5) in connection with an August 2, 2007 letter sent by SSgA to clients, and with violating §§ 17(a)(2) and (3) of the Securities Act in connection with an August 14, 2007 letter sent to clients.

With respect to the August 2 letter, it is undisputed that Mr. Flannery’s role was limited to offering one small set of “suggested edits,” which did not substantively alter the content that the SEC now decries. Indeed, Mr. Flannery’s proposed changes were significantly revised further by others—including counsel—after Mr. Flannery made them, and yet none of those individuals has been charged.

It also is undisputed that SSgA’s experienced in-house and outside securities lawyers played active roles in drafting and approving both letters, with knowledge of the relevant facts the SEC now claims were improperly omitted from those letters. In fact, the language challenged by the SEC in the August 14 letter was inserted by a senior SSgA attorney. It is further undisputed that neither letter offered securities for sale or solicited an offer or sale of securities, and that Mr. Flannery received no money or property as a result of either letter.

For these reasons, Mr. Flannery is entitled to judgment as a matter of law on every one of the SEC’s claims against him, and he respectfully requests that judgment be entered in his favor.¹

¹ Mr. Flannery has limited this motion to arguments that do not require resolution of factual disputes. Thus, the issues raised in this motion represent only some of the many fatal flaws in the SEC’s case against Mr. Flannery. Others include that: (1) the alleged misstatements were not false or misleading given the

(continued...)

I. BACKGROUND

A. Mr. Flannery's Role Within SSgA

Mr. Flannery was SSgA's Chief Investment Officer ("CIO") Americas. See Ex. 2 at 58:24–59:1.² In his role as CIO, Mr. Flannery was responsible for overseeing strategy for all of SSgA's funds and assets under management. See Ex. 12 at SSgA-SEC 60359 (SSgA org chart dated May 30, 2007). Mr. Flannery was not responsible for SSgA's client relations/communications, compliance, or legal functions. See id.; see also Ex. 2 at 85:9–86:10. While Mr. Flannery communicated with clients and their consultants when asked by client relations personnel to do so, he did not maintain the sort of regular communications that employees in the client relationship department had with their clients, and was not aware of the specific information made available to clients about the fund at issue, the Limited Duration Bond Fund ("LDBF"). See Ex. 2 at 84:18–86:10; see also Ex. 15 (example of documents reflecting Mr. Flannery was not involved with determining which clients received information); Ex. 20 (same). He believed that clients were provided with substantial information, but it was SSgA's client relations department that was responsible for determining precisely what information to provide to those clients, and it was SSgA's legal department's responsibility to ensure that those communications satisfied SSgA's legal obligations.³

information available to SSgA's sophisticated clients at the time, (2) the alleged omissions were not material given that same information, (3) Mr. Flannery was under no duty to disclose the facts purportedly omitted, and (4) the SEC's evidence would fail to establish negligence or *scienter*.

² All "Ex." references are to exhibits attached to the Affidavit of Peter M. Acton, Jr., submitted herewith.

³ As part of its settlement with SSgA, the Staff negotiated a limited waiver of privilege related to legal advice that was specifically provided with respect to the letters to investors. By negotiating only a limited waiver, the Staff deprived Mr. Flannery of exculpatory evidence that goes to the very heart of the SEC's charges and is necessary to his defense (i.e., evidence that SSgA attorneys knew of facts relevant to the legal advice they provided with respect to the letters).

Mr. Flannery is not a lawyer. When he learned SSgA was preparing a letter to clients in July 2007, a letter as to which the SEC makes no allegations against Mr. Flannery, he requested that SSgA's legal department review the letter before it was sent to clients and lawyers were, in fact, involved at every step in the process. See Ex. 2 at 840:12–16; Ex. 26; Ex. 27; Ex. 28. It is undisputed that SSgA's in-house and outside lawyers were also intimately involved in reviewing, drafting, and approving both the August 2 and August 14 letters. See, e.g., Ex. 29 (August 2 letter legal review); Ex. 40 (same); Ex. 41 (same); Ex. 42 (same); Ex. 43 (same); Ex. 44 (same); Ex. 45 (same); Ex. 46 (same); Ex. 47 (same); Ex. 48 (August 14 letter legal review); Ex. 49 (same). In explaining the role of SSgA's legal department in reviewing and approving the client letters, SSgA's General Counsel, Mitch Shames, testified:

As my role as general counsel of SSgA, I viewed my primary obligation and responsibility to be, to assemble the right team with the right expertise to handle various matters [W]hen I received the first draft of [the July 26, 2007 letter], *I assembled the right team, which in my mind was Mark Duggan, Chris Douglass, Glenn Ciotti, and Liz Fries.* And while I reviewed the document for purposes of clarity, *I had the confidence that my team of counsel was doing what they deemed necessary to review the communication.*

....

When I reviewed the letter and identified that it was a client — a market commentary, I wanted to bring in lawyers who specifically had investment and securities experience. And so I assembled a team which would have — *a team which I would have been confident in, would have reviewed the letter in a way that they thought was necessary in order for the legal group to sign-off on the letter.*

Ex. 4 at 80:4–13; 89:21–90:2.

B. The August 2, 2007 Letter

Mr. Flannery did not draft the August 2nd letter, nor did he ask that it be drafted. See Ex. 2 at 590:4–591:11. He also did not sign that letter. See Ex. 8 at 003700531. In fact, the only substantive involvement he had with the letter at all was in connection with an early draft

circulated on July 31, 2007, when he was one of eight people copied on an e-mail sent by Adele Kohler (Senior Managing Director, Product Development and Product Engineering) to SSgA's General Counsel, Mr. Shames. See Ex. 39. In addition to Mr. Shames, that e-mail was sent to Marc Brown (Chief Marketing Officer), Staci Reardon (Co-Managing Director, U.S. Relationship Management), Larry Carlson (Co-Managing Director, U.S. Relationship Management), Nicholas Mavro (Vice President- Consultant Relations), James Hopkins (Product Engineer), and Michael Wands (Director- Fixed Income). See id. In her e-mail, Ms. Kohler specifically asked Mr. Shames to "take a look and communicate any concerns to Nick Mavro and Larry Carlson as they will run with this tomorrow." Id. On August 1, 2007, Mr. Flannery replied to Ms. Kohler and all who had received her e-mail, including the General Counsel and the three most senior employees in client relations, with his "suggested edits". See Exs. 41, 42.

In the Order Instituting,⁴ the SEC specifically references only one of the nine paragraphs in the August 2nd letter. That paragraph is entitled "Actions Taken." When Mr. Flannery received the draft from Ms. Kohler on July 31st, the "Actions Taken" paragraph said:

Actions Taken

While we believe that events over the past several months have been largely the result of liquidity and leverage issues, versus long-term fundamentals, we are also aware that the downdraft in valuations have [sic] had a significant impact on the risk profile of our portfolios, and thus we have taken steps to reduce risk across the affected portfolios. Within the Limited Duration Bond Fund we have reduced exposure to a significant portion of triple B securities, we have sold a large amount of our triple A cash positions and will be reducing additional triple A exposure as total return swaps roll off at month end. These actions will simultaneously serve to reduce risk in other SSgA strategies that hold units of the Limited Duration Bond Fund.

Ex. 29. With Mr. Flannery's "suggested edits," the "Actions Taken" paragraph said:

⁴ The Order Instituting Administrative and Cease-And-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, Section 203(f) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940 ("Order Instituting").

Actions Taken

While we believe that events over the past several months have indicate [sic] some deterioration in longer-term fundamentals [sic], we believe price action has been dominated by the unwinding of leverage in a market segment with sharply reduced liquidity. Additionally, the downdraft in valuations hashad [sic] a significant impact on the risk profile of our portfolios, prompting us to take steps to reduce risk across the affected portfolios. Within the Limited Duration Bond Fund we have reduced exposure to a significant portion of triple B securities, we have sold a large amount of our triple A cash positions and additional triple A exposure as some total return swaps rolled off at month end. These actions simultaneously serve to reduce risk in other SSgA strategies that hold units of the Limited Duration Bond Fund.

Ex. 31. Thus, Mr. Flannery's only proposed revisions to the "Actions Taken" paragraph were:

Actions Taken

~~While we believe that events over the past several months have been largely the result of liquidity and leverage issues, versus indicate some deterioration in longer-term fundamentals, we are also aware that we believe price action has been dominated by unwinding of leverage in a market segment with sharply reduced liquidity. Additionally, the downdraft in valuations have hashad a significant impact on the risk profile of our portfolios, and thus we have prompting us to take~~ steps to reduce risk across the affected portfolios. Within the Limited Duration Bond Fund we have reduced exposure to a significant portion of triple B securities, we have sold a large amount of our triple A cash positions and ~~will be reducing~~ additional triple A exposure as some total return swaps rolled off at month end. These actions ~~will~~ simultaneously serve to reduce risk in other SSgA strategies that hold units of the Limited Duration Bond Fund.

Mr. Flannery's only other "suggested edits" to the draft consisted of changing

"delinquencies" to "defaults" in one paragraph; deleting "through an exchange traded vehicle" from the end of a sentence in that same paragraph; and asking that one fact be re-checked in another paragraph. See Ex. 31. The Order Instituting does not make any allegations with respect to those other suggestions. In their entirety, Mr. Flannery's "suggested edits" to the draft consisted of deleting 34 words, replacing them with 34 words, and asking that a single fact be re-checked.

The following people received or commented on the draft between the time Mr. Flannery made his "suggested edits" and the time the letter was sent to clients: Ms. Kohler, Ms. Reardon, Mr. Hopkins, Mr. Wands, Mr. Carlson, Mr. Mavro, and Mr. Brown. See, e.g., Exs. 32, 33, 34.

In addition to those individuals, at least five lawyers received or commented on the draft at least once after Mr. Flannery circulated his “suggested edits”: Mr. Shames, Elizabeth Fries, Jodi Luster, Glenn Ciotti, and Charles Cullinane. See, e.g., Exs. 35, 36, 37, 38. SSgA’s outside securities counsel Ms. Fries, a partner at Goodwin Procter LLP, also reviewed the letter prior to its dissemination to clients.⁵ See Ex. 35.

Following Mr. Flannery’s only set of proposed revisions, the “Actions Taken” paragraph was extensively revised as follows by others prior to being sent to clients:

Actions Taken

~~While we believe that events over the past several months have indicate some deterioration in what has occurred in the subprime mortgage market to date this year has been more driven by liquidity and leverage issues than longer term fundamentals, we believe price action has been dominated by the unwinding of leverage in a market segment with sharply reduced liquidity. Additionally, the downdraft in valuations ~~has had~~ has had a significant impact on the risk profile of our portfolios, prompting us to take steps to seek to reduce risk across the affected portfolios. ~~Within~~ To date, in the Limited Duration Bond Fund Strategy, we have reduced ~~exposure to~~ a significant portion of triple B or BBB-rated securities, and we have sold a large significant amount of our triple A AAA-rated cash positions and a. Additionally, ~~triple A AAA-rated~~ triple A AAA-rated exposure has been reduced as some total return swaps rolled off at month end. Throughout this period, the Strategy has maintained and continues to be AA in average credit quality according to SSgA’s internal portfolio analytics. ~~These~~ actions we have taken to date in the Limited Duration Bond Strategy simultaneously served to reduced risk in other SSgA active fixed income and active derivative-based strategies ~~that hold units of the Limited Duration Bond Fund.~~~~

Compare Ex. 31, with Ex. 8 at 003700531.

In total, just five words from Mr. Flannery’s “suggested edits” to the “Actions Taken” paragraph were ultimately included in the letter sent to clients. Those words are in bold below.

⁵ According to Ms. Fries’ biography, she counsels investment advisers, investment companies, banks, and other providers of financial services regarding complex compliance issues resulting from the operation and integration of a variety of investment businesses. She holds herself out as being an expert in the areas of the securities laws and “analyzing complex issues and managing multi-faceted challenges toward practical resolutions.” See <<http://www.goodwinprocter.com/People/F/Fries-Elizabeth-Shea.aspx>>.

We believe that what has occurred in the subprime mortgage market to date this year has been more driven by liquidity and leverage issues than long term fundamentals. **Additionally**, the downdraft in valuations has had a significant impact on the risk profile of our portfolios, **prompting us to** take steps to seek to reduce risk across the affected portfolios. To date, in the Limited Duration Bond Strategy, we have reduced a significant portion of our BBB-rated securities and we have sold a significant amount of our AAA-rated cash positions. Additionally, AAA-rated exposure has been reduced as **some** total return swaps rolled off at month end. Throughout this period, the Strategy has maintained and continues to be AA in average credit quality according to SSgA's internal portfolio analytics. The actions we have taken to date in the Limited Duration Bond Strategy simultaneously reduced risk in other SSgA active fixed income and active derivative-based strategies.

C. **The August 14, 2007 Letter**

The genesis of the August 14 letter was an e-mail exchange that began on August 2, 2007, in which Mr. Flannery asked senior members of the client relations team what clients were asking about following Standard and Poor's and Moody's unprecedented downgrading of a significant number of bonds backed by subprime mortgages:

At this point I know we have had a number of interactions with clients and consultants. *It is important to get frank and constructive feedback on what is working well and what we can do to improve things.* I want to underscore that our role here is to do the best job possible.

Please provide that feedback to me (and directly to individuals if appropriate) so I can help. In addition, anything you need from me (*I haven't had any client calls*) is on the table.

Ex. 61 at SS 162489 (emphases added). The next day, Larry Carlson responded, stating that there had been feedback:

Thanks Sean. There have been a few comments that we [SSgA] may be a little cavalier about the situation. A couple of [relationship managers] have mentioned that we feel that we do not necessarily need to apologize per se . . . but should be saying up front that we realize that this is a serious situation, that we are disappointed in what has transpired and are doing everything we can to mitigate the damage and make sure that we rectify the situation.

Ex. 61 at SS 162488. Out of a desire to address some of the concerns articulated in Mr. Carlson's e-mail, Mr. Flannery *volunteered* to draft a letter to clients. He did so because he wanted to provide a real-time perspective "describing, as best we could, what was going on in the market" and address, in a sincere way, the frustrations some clients had expressed about SSgA. Ex. 2 at 602:11-22, 604:13-605:17. Mr. Flannery told his boss, SSgA's Chief Executive Officer, William Hunt, that he wanted to send a letter because he felt it was important to provide clients with information and that, in his view, sending such a letter "was the right thing to do." Ex. 2 at 604:15-23. Mr. Hunt initially advised Mr. Flannery not to send the letter under his own name. See Ex. 2 at 609:2-611:18 ("Why would you raise your head up?"). Mr. Flannery, however, felt strongly about the issue, and Mr. Hunt ultimately agreed that sending the letter to clients made sense. In fact, Mr. Hunt later praised Mr. Flannery for the letter, calling it a "good communication." Ex. 58.

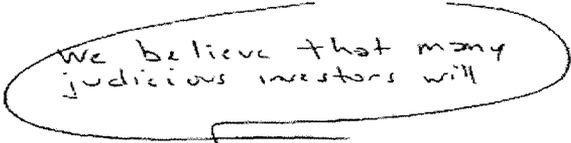
Mr. Flannery created the original draft of the August 14 letter on August 4, 2007. See Ex. 22. In the Order Instituting, the SEC challenges one sentence of that six paragraph letter: "While we will continue to liquidate assets for our clients when they demand it, we believe that many judicious investors will hold the positions in anticipation of greater liquidity in the months to come." Order Instituting ¶ 40. The SEC also contends that the letter omitted the illiquid nature of the remaining investments in LDBF, and that LDBF used swaps and other investment vehicles tied to subprime. Id.

1. **The Many Judicious Investors Language Was Inserted by SSgA's Deputy General Counsel, Who Was Aware of the Relevant Facts**

As originally drafted by Mr. Flannery, the letter read: "While we will continue to liquidate assets for our clients when they demand it, our advice is to hold the positions for now." Ex. 22. It is undisputed that this statement reflected the investment team and Mr. Flannery's

good faith view of the long term fundamentals of the market and his belief that investors should hold their positions. See e.g., Ex. 3 at 456:23–457:9 (describing Mr. Flannery’s view of the market); Ex. 1 at SS 3875767 (investment team’s view). Through subsequent edits by others at SSgA, by August 7 that sentence became: “While we will continue to liquidate assets for our clients when they demand it, our advice is to hold the positions in anticipation of greater liquidity in the months to come.” Ex. 23.

On August 7, SSgA’s Deputy General Counsel, Mark Duggan, further revised the sentence:

•
•
•

the year, we believe that liquidity will slowly re-enter the market and the segment will regain its footing. While we will continue to liquidate assets for our clients when they demand it, ~~our advice is to~~ hold the positions in anticipation of greater liquidity in the months to come.

Ex. 21. The SEC contends the “many judicious investors” language inserted by Mr. Duggan was misleading because three advisory groups within SSgA (i.e., internal consultants providing investment advice to clients) had previously recommended that their clients withdraw their investments from LDBF, and that Mr. Flannery was negligent in not raising that issue with Mr. Duggan. It is undisputed that Mr. Duggan was aware that at least one of the advisory groups had made a withdrawal recommendation weeks prior to inserting the “many judicious investors” language, and undisputed Mr. Flannery reasonably believed that Mr. Duggan had this knowledge well in advance of his insertion of the questioned language. See Ex. 3 at 525:3–526:21.

One of those advisory groups was Global Asset Allocation (“GAA”). On August 6, 2007, Mr. Duggan received a document prepared by SSgA’s legal and client relations departments to help client relations personnel respond to client inquiries. See Ex. 60; see also Ex. 3 at 315:3–319:4. Mr. Flannery received a copy of this Frequently Asked Questions

(“FAQ”) document as well, and thus knew by August 6 that Mr. Duggan had received it. See Ex. 60; see also Ex. 2 at 969:13–970:6. Mr. Duggan testified that he reviewed the FAQs when he received them during the first week of August, that he discussed them with Ms. Fries prior to August 14, and that he participated in several meetings about them prior to that date. See Ex. 3 at 237:14–17, 290:21–291:6 (testifying he discussed the FAQs in the context of the August 14 letter), 313:3–314:10, see also id. at 311:1–5, 315:3–319:14. The FAQs included the following information:

31. What affect has this had on your Asset Allocation Funds? What is your GAA Team doing to address this?

Our GAA team has reviewed the situation, relative to whether they should continue to hold various strategies (Active Core Bonds/ Limited Duration Bond Fund) and are recommending a move to passive fixed income. Their concern is that turmoil in the ABX segment of the market may continue for several months and they would like to limit, to the extent possible, any further losses.

Ex. 7 at SS 4379050 (emphasis added).⁶ It is thus undisputed that Mr. Duggan knew by August 7 that at least one of the advisory groups within SSgA was recommending that clients withdraw from LDBF, and nonetheless chose to insert the “many judicious investors” language.⁷

Moreover, Mr. Flannery was aware that Mr. Duggan had this knowledge well in advance of Mr. Duggan’s edit to the letter.⁸

⁶ On July 26, 2007 Mr. Duggan had a conversation with Alistar Lowe, the head of GAA. Mr. Duggan testified that, based on that conversation, he “made an inference” that GAA believed that its clients should no longer continue to invest in actively managed bond funds, such as LDBF. Ex. 3 at 525:21–526:5.

⁷ It is also undisputed that Ms. Fries specifically reviewed Mr. Duggan’s “many judicious investors” language, reviewed and discussed the FAQs with Mr. Duggan, and did not recommend a change to that language in the letter. See Ex. 48; see also Ex. 3 at 487:1–8, 489:1–15.

⁸ Mr. Flannery (a) knew Mr. Duggan received the FAQs and that legal was involved in reviewing and approving those FAQs (see Ex. 60); (b) participated in a meeting with Mr. Duggan about the FAQs before August 14 (see Ex. 3 at 315:3–319:4); and (c) was there when Mr. Duggan spoke with Mr. Lowe on July 26 concerning the fact that GAA was considering whether to recommend to its clients that they redeem their investments in LDBF (see Ex. 18).

2. **Mr. Flannery Did Not Act Negligently With Respect to the Alleged Omissions**

With respect to the alleged omissions in that letter (i.e., the illiquid nature of the remaining investments in LDBF, and that LDBF used swaps and other investment vehicles tied to subprime), there can be no serious contention that Mr. Flannery acted negligently. Mr. Flannery was included on the multiple drafts of the August 14 letter that were circulated to SSgA's senior client relations personnel, who knew what information had already been provided to clients. See, e.g., Exs. 25, 49, 51, 56. The drafts were also provided to Mr. Duggan, who Mr. Flannery reasonably believed was well versed in the facts. See, e.g., Exs. 25, 49, 51, 56. For example, at Mr. Flannery's request, Mr. Duggan attended the July 25 and August 8 Investment Committee meetings. See Exs. 18 (July 25 meeting), 13 (Aug. 8 meeting). At the July 25th Investment Committee meeting, the following topics were discussed: there were serious liquidity concerns in the market, there was a need to increase liquidity in LDBF, the market conditions were making it difficult to raise liquidity and properly price securities in LDBF, and SSgA's client relations team was anticipating redemptions in the range of 25 to 50% from LDBF. See Exs. 11, 18. At the August 8 Investment Committee meeting, the Committee again discussed the illiquidity in the market, the issues caused by the illiquid market, how these issues were affecting LDBF, and how best to protect clients' interests. See Ex. 13. Mr. Duggan was present and participated in the discussions at both of those meetings. See Exs. 11, 13. As noted above, Mr. Flannery was also aware that Mr. Duggan received and reviewed the FAQs and that the client relations department received the FAQs and were using them with clients. That document discussed the illiquidity of the market and the impact that was having on the portfolio, and LDBF's use of swaps and other investment vehicles tied to subprime. See Ex. 60. Thus, as to each of the alleged omissions, Mr. Flannery reasonably believed that SSgA's counsel and client

relations department had the information necessary to determine whether or not any of that information should have been disclosed.

Mr. Flannery also knew that some of this information was already available publicly. On July 25th, for example, an article from Money Management Letter, a publication targeted to institutional investors, was released. See Ex. 57. The publicly available article featured LDBF among the “[I]osers in [the] subprime debacle,” noting that the fund had lost between three and four percent during July. Id. The article also included information the SEC claims SSgA did not provide to clients, including that “[t]he fund is *invested mostly in subprime* mortgage-backed securities”; that “SSgA’s Web site says *the strategy also uses derivatives* to eliminate interest rate risk”; and that “[s]ome of the firm’s other active fixed-income and large-cap enhanced index strategies have some exposure to [LDBF].” Id. Mr. Flannery read this article on July 26 and forwarded it to Mr. Hunt who, in turn, forwarded it to Mr. Brown. See id.

Ultimately, Mr. Duggan reviewed the August 14th letter at least six more times before it was disseminated to clients. See Exs. 48, 51, 52, 53, 54, 55. He reviewed it so many times that, in an e-mail to Mr. Flannery, he wrote: “**How many times do we have to sign off???**” Ex. 54 (emphasis added). Mr. Shames also reviewed the draft August 14th letter after Mr. Duggan revised the “many judicious investors” language. See Ex. 3 at 264:20–21.

When asked whether the legal team he assembled had all the facts needed to effectively advise the Company with respect to the letters, SSgA’s General Counsel, Mr. Shames, testified:

- **Ex. 4 at 156:25–157:2:** “. . . I had confidence that [Ms. Fries] either had the information that she needed, or that she would have requested the information that she needed.”
- **Id. at 157:5–8:** “. . . Mark Duggan had the experience and the expertise, and I had the confidence in that, that he would have undertaken what he needed to undertake, along with Ms. Fries, to provide the approval.”

- **Id. at 158:25–159:2:** “I was confident that they team would undertake whatever actions the needed to undertake, in order to sign-off on the letter.”
- **Id. at 160:18–22:** “My expectation is that they could do or undertake whatever, ask any questions that they had and if they — if they felt, because of their knowledge of the law that they needed to question things, it would be my expectation that they would.”

Like Mr. Shames, Mr. Flannery trusted in and relied upon Mr. Duggan and the SSgA legal departments’ advice and abilities, and reasonably believed that they were apprised of the relevant facts. See Ex. 2 at 942:17–943:2. When Mr. Duggan inserted the “many judicious investors” language in the August 14th letter, Mr. Flannery believed that Mr. Duggan’s change fully satisfied SSgA’s legal obligations. As Mr. Flannery testified: “I’m an investment guy, not an attorney. I worked with Mark for many, many years. If he suggests an edit, I have reason to believe that there was a good reason for that.” Ex. 2 at 943:21–944:4. For his part, Mr. Duggan testified that he would have been “remiss” to not take into account information he had previously received when reviewing the client letters. Ex. 3 at 401:21–402:7.

In addition to following the advice of SSgA’s Deputy General Counsel concerning the “many judicious investors” language, Mr. Flannery actively solicited the input of the client relations department. For example, after incorporating Mr. Duggan’s “many judicious investors” revision to the letter, Mr. Flannery circulated the draft letter and wrote:

I do think we need to hear from relationship management as to how valuable this letter is (or is not) and to whom and under what circumstances we would send it. I will rely on [Ms. Reardon] and [Mr. Carlson] to advise re anyone else in SSgA that needs to review this letter or send it.

Ex. 22. In fact, in addition to the three lawyers that reviewed the August 14 letter, at least seven senior executives reviewed the letter, including Mr. Hunt, Mr. Brown, Mr. Carlson, Ms. Reardon, and Hannah Grove (Director of Media Relations at State Street Bank and Trust, not SSgA). Mr. Hunt reviewed, commented on, and formally approved the letter. *See* Ex. 6 at

230:20–232:8. Mr. Brown, who was ultimately responsible for determining who would (and would not) receive this letter, reviewed and commented as well. See Ex. 59. Mr. Carlson (Managing Director of U.S. Relationship Management), who reported to Mr. Brown, not only reviewed the letter and determined who would receive it (see Ex. 9; Ex. 5 at 247:19–25), he reported to Mr. Flannery that he was pleased with the content. In addition to the two most senior lawyers within SSgA (Messrs. Shames and Duggan) and SSgA’s outside counsel (Ms. Fries), the following client relations people reviewed a draft of the August 14 letter after they received the FAQ that disclosed GAA’s recommendation to its clients: Mr. Brown, Mr. Carlson, Ms. Reardon, and Mr. Mavro. Neither they nor anyone else within the Company suggested that the letter include GAA’s recommendation, or that the “many judicious investors” language was incompatible with the recommendations of GAA.

D. The August 2 and August 14 Letters Were Part of a Larger Effort by SSgA to Provide Clients with Information

The August 2 and August 14 letters were not sent in a vacuum. Rather, they were part of a larger communication initiative by SSgA during the mid-2007 crisis. The goal of that initiative was to keep clients informed of market developments and the performance of LDBF.

One of the tools SSgA created to enable the client relations department to provide clients with information was the FAQ document discussed above, which was approved by legal and distributed to the client relations department for use before the August 2 letter was sent to clients. See Exs. 14, 19. As the SEC states in its Order Instituting, the FAQs were “far more comprehensive” than the letters and “enabled” SSgA’s “client service personnel to disclose material information to certain investors, including that the fund was concentrated in subprime investments and that State Street’s largest internal advisory group had decided to redeem out of the Fund and the related funds.” Order Instituting ¶ 36. By August 7, the FAQs contained the

very information that the SEC says was omitted from the August 14 letter. See generally Exs. 7 (FAQs as of Aug. 1), 60 (as of Aug. 8). The SEC further states that “[i]n late July and early August, in response to requests from certain investors or their outside consultants, State Street also provided the Fund’s holdings and disclosed the fact that State Street had decided to reprice some of the Fund’s securities to reflect market prices that were lower than the vendor prices State Street had been using to arrive at the Fund’s net asset value.” Order Instituting ¶ 36. Indeed, literally hundreds of calls with clients took place during this period. See generally Exs. 16, 17 (logging records of calls).

As the SEC’s Order Instituting and the FAQs plainly reflect, the information the SEC complains should have been disclosed was available and provided to certain clients.⁹ Yet, even though he reasonably believed this information was available to investors—because SSgA indisputably provided it to some, and a late July newsletter disclosed supposedly undisclosed information about subprime exposure and leverage, the SEC has charged an “investment guy” who was not responsible for client communications and was not a lawyer, with a *scienter*-based charge in connection with a letter in which he contributed five innocuous words, and a negligence-based charge in connection with a sentence drafted by a lawyer.

⁹ Pursuant to Company policy, the FAQs could only be used orally by client relations personnel in response to a question from an investor. There is no evidence that Mr. Flannery had anything to do with that limitation on use (because he did not). In any event, Mr. Duggan testified he considered whether it would violate securities laws to provide material information contained in the FAQs to some clients and not others. Mr. Duggan believed Ms. Fries considered whether using the FAQs to disseminate information to clients might violate securities laws.

II. ARGUMENT

A. The Summary Judgment Standard

The Court should grant summary disposition because, even assuming (for summary disposition purposes) the letters contained material misstatements or omissions,¹⁰ the SEC cannot prove—and in some cases has not even pled—the required elements of its fraud charges against Mr. Flannery. See Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986) (defendant is entitled to summary judgment when “there is an absence of evidence to support [plaintiff’s] case”). With respect to at least two required elements of each charge, “there is no genuine issue with regard to any material fact” and Mr. Flannery “is entitled to a summary disposition as a matter of law.” See SEC Rule of Practice 250(b). Despite two years of intense investigation, including fifty depositions and millions of pages collected, the SEC cannot make a “showing sufficient to establish the existence of [every] element essential to [its] case, and on which [it] will bear the burden of proof at trial.” See Celotex Corp., 477 U.S. at 322.

In particular, having charged Mr. Flannery only as a primary violator, the SEC cannot demonstrate that he played any meaningful role in crafting the August 2 letter. The undisputed facts also preclude the SEC from establishing Mr. Flannery acted negligently, recklessly, or with intent to defraud. To the contrary, he actively involved SSgA’s expert in-house and outside lawyers at every turn, and did so in good faith. While he played a more substantial role in the August 14 letter, it is undisputed that the key language focused on by the SEC was inserted by SSgA’s Deputy General Counsel. Finally, it is undisputed neither letter concerned the offer or sale of a security and that Mr. Flannery obtained no money or property by reason of either letter.

¹⁰ Mr. Flannery disputes the notion that either letter contains material misstatements or omissions.

The SEC cannot simply rely on the allegations set forth in the Order Instituting at this stage; it must point to admissible evidence that it could use to satisfy its burden of proof. See, e.g., Eric R. Majors, SEC Rel. No. 409, 2010 WL 4877354, at *2 (ALJ Dec. 1, 2010) (initial decision) (In opposing motion for summary disposition, the SEC “must set forth specific facts showing a genuine issue for a hearing and may not rest upon the mere allegations. . . of its pleadings.”). The SEC cannot do so, as the undisputed facts alone are dispositive. Thus, Mr. Flannery is entitled to summary disposition with respect to all charges against him.

B. Mr. Flannery’s Limited Involvement With the August 2 Letter Precludes Liability

1. With Respect to Its § 10(b)/Rule 10b-5 Charge, the SEC Cannot Demonstrate That Mr. Flannery Made a Statement or That He Did So With *Scienter*

As set forth above, the SEC charges a violation of § 10(b) and Rule 10b-5 only with respect to the August 2 letter. Those claims fail because, on the undisputed facts, Mr. Flannery’s role was too insignificant for primary liability to attach and the SEC simply cannot prove that he acted recklessly or with conscious intent to defraud.

a. Mr. Flannery Made No Statement

The SEC cannot prevail on its § 10(b)/Rule 10b-5 claim without proving Mr. Flannery personally either made an untrue statement of material fact or omitted a fact he was obligated to disclose—in other words, that he committed a primary violation. See SEC v. Tambone, 417 F. Supp. 2d 127, 131–35 (D. Mass. 2006) (citing *inter alia* Aaron v. SEC, 446 U.S. 680, 695 (1980); Wright v. Ernst & Young, LLP, 152 F.3d 169, 175 (2d Cir. 1998)). At a minimum, that means that the SEC must establish “substantial participation or intricate involvement in the preparation of fraudulent statements” by Mr. Flannery himself. See SEC v. Tambone, 597 F.3d 436, 447 (1st Cir. 2010) (*en banc*) (quoting Howard v. Everex Sys., Inc., 228 F.3d 1057, 1061

n.5 (9th Cir. 2000)). Indeed, this Court should require the SEC to prove even more: that Mr. Flannery actually “created” the misstatements of which the SEC complains or at least “caused the[ir] existence.” See Tambone, 597 F.3d at 447; Wright, 152 F.3d at 175 (employing “bright line” test for primary liability); SEC v. Wolfson, 539 F.3d 1249, 1259 n.16 (10th Cir. 2008) (employing “creation” test for primary liability).

It is undisputed that Mr. Flannery did not commission, draft, or sign the August 2 letter. It is undisputed that he was one of eight people asked to comment on the letter and that his involvement was limited to a single set of “suggested edits” that consisted of deleting and replacing 34 words (in a ~1,000-word draft) and asking that a single fact be re-checked. With respect to the only portion of the letter that the SEC cites in the Order Instituting, Mr. Flannery proposed replacing exactly ten words in Adele Kohler’s draft with eight slightly different ones:

Additionally, the downdraft in valuations ~~have~~ has had a significant impact on the risk profile of our portfolios, ~~and thus we have~~ prompting us to take steps to reduce risk across the affected portfolios. Within the Limited Duration Bond Fund we have reduced exposure to a significant portion of triple B securities, we have sold a large amount of our triple A cash positions and ~~will be reducing~~ additional triple A exposure as some total return swaps rolled off at month end. These actions ~~will~~ simultaneously serve to reduce risk in other SSgA strategies that hold units of the Limited Duration Bond Fund.¹¹

As noted above, only five of those words appeared in the final letter. Mr. Flannery’s “suggested edits” made no substantive changes to Ms. Kohler’s draft. Other than to clarify that only “some” swaps had rolled off, they were purely stylistic. If anything, Mr. Flannery’s “suggested edits” made the draft more accurate, not less, because the actions Ms. Kohler described (*e.g.*, the sale of BBB and AA positions) already had happened or would have happened by the time the letter was to be sent.

¹¹ *Blue underlined text* signifies words Mr. Flannery suggested adding. *Red strike-through text* signifies words that appeared in the draft when it reached Mr. Flannery and that he suggested deleting. Mr. Flannery left all other text unchanged.

In addition to the General Counsel, Mr. Flannery sent his “suggested edits” to Ms. Kohler (who authored the initial draft of the letter and could assess his suggestions against the information available to her and what she envisioned for the letter); Mr. Wands (the Director of Bond funds within SSgA, who was involved day-to-day with respect to LDBF and had substantial subject matter expertise); and the three senior-most members of the client relations department, which was responsible for monitoring the information provided to clients and determining what information clients needed. Under those circumstances, his transparency with respect to his “suggested edits” simply cannot be negligent, let alone reckless or fraudulent.

In any event, it is undisputed that, after Mr. Flannery offered his “suggested edits,” others at SSgA—including its General Counsel—reviewed and substantially rewrote the text:

Additionally, the downdraft in valuations ~~has had~~ has had a significant impact on the risk profile of our portfolios, prompting us to take steps to seek to reduce risk across the affected portfolios. ~~Within~~ To date, in the Limited Duration Bond Fund Strategy, we have reduced exposure to a significant portion of ~~triple B or~~ BBB-rated securities, and we have sold a large significant amount of our ~~triple~~ AAAA-rated cash positions and a. Additionally, ~~triple AAAA-rated exposure has been reduced as some total return swaps rolled off at month end. Throughout this period, the Strategy has maintained and continues to be AA in average credit quality according to SSgA's internal portfolio analytics. These actions we have taken to date in the Limited Duration Bond Strategy simultaneously served to reduced risk in other SSgA active fixed income and active derivative-based strategies that hold units of the Limited Duration Bond Fund.~~¹²

To the extent the SEC complains about the “continues to be AA in average credit quality” statement, that statement was inserted by someone else *after* Mr. Flannery made his comments. To the extent the SEC complains about risk reduction statements more generally, those were in Ms. Kohler’s draft before it reached Mr. Flannery—he simply passed along her statements, while changing some verb tenses to (accurately) reflect that the transactions being described already

¹² *Blue underlined text* signifies words added by others that did not appear in Mr. Flannery’s “suggested edits” version. *Red strike through text* signifies words that appeared in Mr. Flannery’s “suggested edits” version but were subsequently removed by others. The remaining text was unchanged.

had occurred.¹³ Earlier this year, the *en banc* First Circuit flatly rejected the SEC's attempts to "imply that 'X' has made a false statement [because] he passed along what someone else wrote [because to do so] would flout a core principle that underpins the Central Bank decision— [dividing primary and secondary liability under the securities laws]." Tambone, 597 F.3d at 446 (citing Cent. Bank of Denver v. First Interstate Bank of Denver, 511 U.S. 164, 173 (1994)). To the extent the SEC complains about facts omitted from the letter, it is legally untenable to lay those at Mr. Flannery's feet given his minimal involvement in the letter's preparation, and in client communications more generally.¹⁴

The "substantial participation" test for dividing primary and secondary liability is the most liberal the SEC could ask this Court to apply, and even it requires far more than the SEC can prove here. Merely contributing revisions to a communication cannot establish primary liability unless the defendant played a "significant role" in the overall drafting process, and participated in "extensive review and discussions." See SEC v. Fraser, 2009 WL 2450508, at *8

¹³ Mr. Flannery does not concede that either statement was false or misleading. To the contrary, if any of the SEC's claims concerning the August 2 letter survives summary disposition, the SEC will be unable to prove at trial that LDBF's overall average credit quality dipped below AA or that risk was not actually reduced by the transactions described in the letter.

¹⁴ To the extent it relies on an omission, the SEC would have to demonstrate both that the omitted fact was material under the circumstances and that Mr. Flannery had a duty to speak on that subject. See, e.g., Basic, Inc. v. Levinson, 485 U.S. 224, 239 n.17 (1988) ("To be actionable, of course, a statement must also be misleading. Silence, absent a duty to disclose, is not misleading under Rule 10b-5."); *id.* at 231–32 (Even assuming a duty to disclose, the securities laws require dissemination only of those facts that would have been substantially likely to have struck a reasonable investor as "having significantly altered the total mix of information made available.") (internal quotation marks omitted); Chiarella v. United States, 445 U.S. 222, 230–33, 235 (1980) (holding that silence, absent a duty to speak, is not misleading and that "a duty to disclose under § 10(b) does not arise from the mere possession of nonpublic market information"). While a duty to disclose can arise "if it is necessary to prevent a voluntary statement from being misleading," In re K-tel Int'l Sec. Litig., 300 F.3d 881, 904 (8th Cir. 2002), such a duty applies *only* to those individuals to whom the voluntary statement is publicly attributable, Tambone, 417 F. Supp. 2d at 135 (citing SEC v. Druffner, 353 F. Supp. 2d 141, 148 (D. Mass. 2005), *aff'd sub nom.*, SEC v. Ficken, 546 F.3d 45 (1st Cir. 2008); SEC v. PIMCO Advisors Fund Mgmt. LLC, 341 F. Supp. 2d 454, 467 (S.D.N.Y. 2004)). The August 2 letter was not attributed to Mr. Flannery, he was not generally responsible for client communications, and he was not aware of what information previously had or had not been provided to clients.

(D. Ariz. Aug. 11, 2009) (quoting In re Software Toolworks, Inc., 50 F.3d 615, 628 n.3 (9th Cir. 1994)). It is undisputed that Mr. Flannery played no such role. Of his “suggested edits” to the section at issue, exactly *five words* made it into the final version, and none of them altered the letter’s substance. Thus, he did not “cause the existence” of any statement or omission in the August 2 letter. See Tambone, 597 F.3d at 447.

To the extent the Court decides to apply the stricter “bright line” or “creation” test, the result is even clearer. Based on the undisputed facts, Mr. Flannery simply made no statement on August 2, so no § 10(b)/Rule 10b-5 liability can arise. See, e.g., Wright, 152 F.3d at 175 (“A defendant must actually make a false or misleading statement in order to be held primarily liable under § 10(b). Anything short of such conduct is merely aiding and abetting . . . no matter how substantial that aid may be.”). Mr. Flannery is therefore entitled to judgment as a matter of law on the § 10(b)/Rule 10b-5 charge.

b. **Mr. Flannery’s Lack of Motive, and the Extensive Involvement of Knowledgeable Lawyers, Negate Any Possibility That the SEC Could Prove Mr. Flannery Acted With *Scienter***

The SEC’s § 10(b)/Rule 10b-5 charge fails for a second reason, too: the SEC cannot demonstrate that Mr. Flannery acted with *scienter*—“an intention to deceive, manipulate, or defraud.” See Dolphin & Bradbury, Inc. v. SEC, 512 F.3d 634, 639 (D.C. Cir. 2008) (explaining that “Section 17(a)(1) of the Securities Act, section 10(b) of the Exchange Act, and Rule 10b-5 require proof of *scienter*”) (citing Aaron, 446 U.S. at 697; Ernst & Ernst v. Hochfelder, 425 U.S. 185, 193 (1976)); Druffner, 517 F. Supp. 2d at 508. There simply is no evidence even suggesting that Mr. Flannery either harbored a “conscious intent to defraud” or acted with a “high degree of recklessness” at any time. See Ficken, 546 F.3d at 47; SEC v. Fife, 311 F.3d 1, 9 (1st Cir. 2002), cert. denied, 538 U.S. 1031 (2003). The degree of recklessness the SEC would need to prove is

“a highly unreasonable omission, involving not merely simple, *or even inexcusable* negligence, but an extreme departure from the standards of ordinary care . . . which present[ed] a danger of misleading buyers or sellers that [was] either known to [Mr. Flannery] or [was] so obvious [that he] must have been aware of it.” See Ficken, 546 F.3d at 47–48 (quoting Fife, 311 F.3d at 9–10) (emphasis added); accord, e.g., Ezra Charitable Trust v. Tyco Int’l, Ltd., 466 F.3d 1, 12 n.10 (1st Cir. 2006) (Inexcusable negligence is “well short” of the required showing.); Wells v. Monarch Capital Corp., No. 97-1221, 1997 U.S. App. LEXIS 30031, at *19 (1st Cir. Oct. 29, 1997) (*per curiam*) (Even “carelessness approaching indifference” may not be sufficient to establish *scienter*.) (quoting Hoffman v. Estabrook & Co., 587 F.2d 509, 516 (1st Cir. 1978)).

The SEC has not even *alleged* that Mr. Flannery acted with a conscious intent to defraud or a high degree of recklessness with respect to the August 2 letter.¹⁵ That is not surprising, he had no motive to mislead anyone. His compensation was not tied to LDBF, and there is no evidence that he did anything other than try to make the letter grammatically correct and more accurate.

The extensive involvement of SSgA’s counsel in the letter drafting process underscores Mr. Flannery’s lack of bad faith or recklessness. As noted above, when Mr. Flannery learned SSgA was preparing a client letter, he requested that SSgA’s legal department review the letter before it was distributed. It is undisputed that Mr. Flannery first received a draft of the August 2nd letter by way of an e-mail directed to Mr. Shames (SSgA’s General Counsel) and eight others, with copies to Mr. Flannery and one other person, in which Ms. Kohler specifically asked Mr. Shames for his opinion as to the legality of its contents. It is also undisputed Mr. Flannery circulated his minimal

¹⁵ The SEC’s rote, boilerplate recitation that Mr. Flannery violated every section and rule at issue “willfully,” see Order Instituting ¶¶ 42–44, is no substitute for actual allegations concerning Mr. Flannery’s supposed state of mind. Indeed, the SEC has reflexively written “willfully” even where the charges at issue, such as those under §§ 17(a)(2) and 17(a)(3), require negligence. Nowhere in the Order Instituting does the SEC actually allege that Mr. Flannery ever harbored an intent to defraud any investor or acted recklessly—or even negligently—to say nothing of substantiating such allegations.

“suggested edits” back to that same group, including Mr. Shames. It is further undisputed that, between that time and the time that the letter went out to clients, no fewer than *five* different lawyers reviewed it: Mr. Shames, Ms. Fries (a “securities law expert,” according to Mr. Shames, and a partner at Goodwin Procter LLP), Ms. Luster, Mr. Ciotti, and Mr. Cullinane.

The involvement of these experienced attorneys in reviewing and approving the August 2 letter precludes the SEC from proving that Mr. Flannery acted with any bad intent. He reasonably believed that they had considered the relevant issues and approved the letters. Numerous courts—and even the SEC itself—have recognized that good faith involvement of counsel or other outside professionals negates allegations of *scienter*. See, e.g., SEC v. Selden, C.A. No. 05-11805-NMG, 2009 U.S. Dist. LEXIS 59214, at *16 (D. Mass. June 24, 2009) (“reliance on advice of counsel is ‘evidence of good faith, a relevant consideration in evaluating a defendant’s scienter’”) (quoting Howard v. SEC, 376 F.3d 1136, 1147 (D.C. Cir. 2004)); SEC v. Snyder, 292 F. App’x 391, 406 (5th Cir. 2008) (“reliance on counsel’s advice is . . . ‘a means of demonstrating good faith and represents possible evidence of an absence of any intent to defraud’”) (quoting United States v. Peterson, 101 F.3d 375, 381 (5th Cir. 1996)); SEC v. Caserta, 75 F. Supp. 2d 79, 94–95 (E.D.N.Y. 1999) (“Good faith reliance on the advice of an accountant or an attorney has been recognized as a viable defense to *scienter* in securities fraud cases.”) (collecting cases); In re Carlson, 46 S.E.C. 1125, 1133 (1977) (declining to impose any penalty beyond censure for the defendant’s failure to, *inter alia*, register under the Securities Act because “[i]t was enough that persons [including an attorney] whom [the defendant] reasonably regarded as more sophisticated in these matters than he was himself assured him that registration was not required”); Report of Investigation of Motorola, Inc., Exchange Act Release No. 46898, 2002 WL 31650174 (Nov. 25, 2002) (declining to take action, despite evidence establishing a violation of an applicable

regulation barring selective disclosure, because “it appear[ed] that Motorola acted based on advice of counsel that, although erroneous, was sought and given in good faith”).

Such reliance on the involvement of counsel serves as an appropriate basis on which to grant Mr. Flannery summary disposition of the SEC’s § 10(b)/Rule 10b-5 charge. See, e.g., In re Reliance Sec. Litig., 135 F. Supp. 2d 480, 508–09 (D. Del. 2001) (granting summary judgment on, *inter alia*, § 10(b) claim in part because defendant chief financial officer “only signed the document [at issue] at the request of [company] counsel, and . . . did so after checking with management and [outside auditors] to ensure that they were comfortable with the analysis and projections in the document”); Mathews v. Centex Telemgmt., Inc., No. C-92-1837-CAL, 1994 WL 269734, at *7 (N.D. Cal. June 8, 1994) (granting summary judgment on § 10(b)/Rule 10b-5 claim on the basis of, *inter alia*, the defendants’ good faith reliance on an outside auditor); Newton v. Uniwest Fin. Corp., 802 F. Supp. 361, 367–68 (D. Nev. 1990) (granting summary judgment on § 10(b)/Rule 10b-5 claim on the basis of, *inter alia*, the defendant’s good faith reliance on company lawyers and accountants), aff’d, 967 F.2d 340 (9th Cir. 1992); Steinberg v. Carey, 439 F. Supp. 1233, 1241 & n.27 (S.D.N.Y. 1977) (granting summary judgment to several defendants on § 10(b)/Rule 10b-5 claims because they had relied upon the advice of “highly specialized” colleagues, including counsel and management, in approving the statement at issue). There is no evidence that Mr. Flannery acted with any intent to defraud or with recklessness. Based on the undisputed facts, Mr. Flannery is entitled to judgment as a matter of law.

C. With Respect to its § 17(a) Charges, the SEC Cannot Prove Liability and Has Failed to State a Claim

1. Mr. Flannery Made No Statement

Like the § 10(b)/Rule 10b-5 claim, the § 17(a) claims charge primary liability, rather than aiding and abetting. Thus, they, too, require the SEC to demonstrate that Mr. Flannery actually

made a statement. See SEC v. Rocklage, 470 F.3d 1, 5 n. 1 (1st Cir. 2006); SEC v. Monarch Funding Corp., 192 F.3d 295, 308 (2d Cir. 1999); SEC v. Czarnik, 2010 WL 4860678, at *3 (S.D.N.Y. Nov. 29, 2010). For the reasons discussed above (see section II.B.1.(a)), it is undisputed that he made no such statement, so these claims too must fail.

2. **There Was No Offer or Sale of a Security**

The SEC does not even plead, much less have a means of proving, that the August 2 letter was written in connection with “the offer or sale of any securities.” See 15 U.S.C. § 77q(a). Indeed, the Order Instituting suggests the opposite—that the purpose of the letter was *to keep SSgA’s clients from redeeming* LDBF holdings they already owned. This failure alone is sufficient to entitle Mr. Flannery to judgment on all of the SEC’s § 17(a) claims. See Chemical Bank v. Arthur Andersen & Co., 726 F.2d 930, 945 (2d Cir. 1984) (dismissing § 17(a) claims after determining that the alleged misstatements were not “in the offer or sale of a security.”), cert denied, 469 U.S. 884 (1984); SEC v. Brown, 2010 WL 3786563, at *11 (D.D.C. Sept. 27, 2010) (dismissing § 17(a) charges because the SEC fails to state a claim under § 17(a) “when it fails to allege that an offer or sale of securities ever occurred.”)

Section 17(a) claims usually are limited to misleading statements or omissions in a prospectus, registration statement or other offering document. See, e.g., SEC v. Leffers, 289 F. App’x. 449, 451 (2d Cir. 2008) (Section 17(a) “typically involves omissions and misstatements made in securities registration statements.”); SEC v. Softpoint, Inc., 958 F. Supp. 846, 861 (S.D.N.Y. 1997) (limiting § 17(a) claims to offering documents and unregistered offerings, and collecting cases applying same). That is not by accident. While the definitions of “offer” and “sale” have been interpreted to cover a range of conduct, all of that conduct must be related to an actual or attempted securities transaction. See Rubin v. United States, 449 U.S. 424, 429 (1981) (“The term ‘sale’ or ‘sell’ shall include every contract of sale *or disposition* of a security *or*

interest in a security, for value. The term ... ‘offer’ shall include every *attempt or offer to dispose of*, or solicitation of an offer to buy, a security *or interest in a security*, for value.”) (quoting § 2(3) of the Securities Act; emphasis supplied by the Supreme Court); Chemical Bank, 726 F.2d at 939–40 (quoting same). It is hardly surprising that the “offer or sale” element has not been stretched to cover conduct outside of that realm such as the conduct alleged here. Were that not the case, § 17(a) would be the preferred enforcement tool over § 10(b) and Rule 10b-5, due to the less stringent *mens rea* requirement under §§ 17(a)(2) and 17(a)(3). Because no offer or sale has been alleged, and none can be shown, the SEC’s § 17(a) claims must fail. See, e.g., Brown, 2010 WL 3786563, at *11 (“The SEC has failed to cite, and this Court has failed to identify, any precedent holding that a complaint may properly state a claim under § 17(a) when it fails to allege that an offer or sale of securities ever occurred.”).

3. **Mr. Flannery Was Not an Offeror or Seller**

The SEC cannot prove—and has not even alleged—that Mr. Flannery was an offeror or seller of securities under § 17(a). Mr. Flannery was responsible for overseeing the people who managed SSgA’s assets under management; not for selling securities to prospective or existing clients. Because he did not engage in solicitation or selling of securities, Mr. Flannery is not an offeror or seller for purposes of § 17(a). See Meadows v. SEC, 119 F. 3d 1219, 1225 (5th Cir. 1997) (citing Pinter v. Dahl, 486 U.S. 622, 643 (1988)). This, too, dooms the SEC’s § 17(a) claims in their entirety. See Ronzani v. Sanofi, S.A., 899 F.2d 195, 198 (2d Cir. 1990) (plaintiff “did not allege a valid claim under § 17(a)” because the complaint “does not allege that [defendant] was a seller or offeror of securities”) (citing Aaron, 446 U.S. at 687); Fund of Funds, Ltd. v. Arthur Andersen & Co., 545 F. Supp. 1314, 1353 (S.D.N.Y. 1982) (noting that “Federal courts at all levels have agreed with [defendant] that § 17(a) is limited in its application to offerors or sellers” and dismissing § 17(a)(3) claim because “there is no basis in this record for finding [the defendant] to be a seller.”).

4. **Mr. Flannery Did Not Act with *Scienter* or Negligently**

Like its § 10(b)/Rule 10b-5 charge, the SEC's § 17(a)(1) charge requires proof that Mr. Flannery acted with *scienter*. See Rocklage, 470 F.3d at 5 n.1; Monarch Funding Corp., 192 F.3d at 308; Czarnik, 2010 WL 4860678, at *3. For the reasons set forth above (see section II.B) concerning attorney involvement, such proof does not exist. Moreover, Mr. Flannery acted reasonably in circulating his “suggested edits” to a broad group of people. Specifically, Ms. Kohler drafted the letter and believed it was accurate. Mr. Flannery reviewed that letter and made minor “suggested edits.” He circulated those edits to Ms. Kohler, three senior members of the client relations team, Mr. Wands (who had subject matter expertise and was deeply involved with LDBF and the market on a daily basis), and SSgA's General Counsel. Indeed, Mr. Flannery acted reasonably by suggesting minimal edits that he believed made the letter more accurate, and circulating those suggestions to this broad group, including counsel. There is no evidence of *scienter*, and this Court should summarily dispose of the § 17(a)(1) claim.

For purposes of its §§ 17(a)(2) and 17(a)(3) claims, the SEC must establish Mr. Flannery acted negligently. As a matter of law, however, Mr. Flannery acted reasonably in offering minor edits and circulating them to SSgA's General Counsel, key members of the client relations department, and a member of the investment team close to the day-to-day activities in LDBF and the market. See, e.g., In the Matter of Albert Glenn Yesner, CPA, Release No. 184, 75 SEC Docket 156 (ALJ May 22, 2001) (initial decision) (“With respect to the non-*scienter* primary violations [defendant] is alleged to have caused, a negligence standard will be applied, and [his] conduct will be measured by reasonableness . . . The reasonableness standard . . . enunciates a standard of care being that of a reasonable man under like circumstances.”) (citations omitted).

5. **Mr. Flannery Did Not Obtain Money or Property From the Letters**

While § 17(a)(2) essentially mirrors Rule 10b-5(b) in most respects, it differs not only in its substitution of negligence for *scienter* but also in its requirement that the SEC allege and prove that the “defendant actually obtained money or property by means of the untrue statements.” Monarch Funding Corp., 192 F.3d at 308 (internal quotation marks and citations omitted). The SEC has made no such allegation and it could not prove such an allegation even if it had done so. There is no evidence in the two-year record assembled by the SEC even suggesting that Mr. Flannery obtained money or property by means of any alleged misstatement, or that his compensation was tied to asset levels in LDBF. Accordingly, Mr. Flannery is entitled to judgment on the § 17(a)(2) claims for this reason, too.

6. **The SEC Has Charged No Fraudulent or Deceptive Practice**

The SEC also has failed to allege and cannot prove that Mr. Flannery, in the offer or sale of a security, “engage[d] in any transaction, practice, or course of business which operate[d] or would operate as a fraud or deceit upon the purchaser.” See 15 U.S.C. § 77q(a)(3). As is the case with Rule 10b-5(c), “the alleged conduct must be more than a reiteration of the misrepresentations underlying the [§ 17(a)(2)] misstatement claims.” Brown, 2010 WL 3786563, at *18 (quoting In re Alstom SA, 406 F. Supp. 2d 433, 475 (S.D.N.Y. 2005)); accord United States v. Naftalin, 441 U.S. 768, 774 (1979) (“[E]ach subsection of Section 17(a) proscribes a distinct category of misconduct.”); see also Fund of Funds, 545 F. Supp. at 1353 (equating the requirements of Rule 10b-5(c) with § 17(a)(3) claim); SEC v. Fitzgerald, 135 F. Supp. 2d 992, 1029 (N.D. Cal. 2001) (same). Here, the SEC has not even alleged any fraudulent or deceptive conduct by Mr. Flannery other than the two letters themselves. Thus, its § 17(a)(3) claims, along with any portion of its Rule 10b-5 claim that is based on Rule 10b-5(c), must fail. See, e.g., Brown, 2010 WL 3786563, at *18.

D. **There is No Liability Under the August 14 Letter**

With respect to the August 14 letter, the SEC charges violations of §§ 17(a)(2) and (3).

While Mr. Flannery did sign the letter, that letter did not arise in the context of an offer or sale of securities. Nor was Mr. Flannery an offeror or seller. Finally, as with the August 2 letter, the SEC has made no allegation that Mr. Flannery obtained money or property through the alleged violation, or that he engaged in any fraudulent or deceptive practice. Thus, for the reasons stated above (see section II.C.5), the SEC's claims concerning the August 14 letter must fail.

The SEC also cannot prove negligence with respect to this letter. It is undisputed that Mr. Duggan, whom Mr. Shames called SSgA's internal securities law "expert," reviewed the letter multiple times before it went out to clients. As even the Order Instituting acknowledges, Mr. Duggan inserted the very statement about which the SEC complains—the "many judicious investors" statement—into the final letter. As set forth above, it is also undisputed that Mr. Duggan was aware of GAA's recommendation to its investors that they withdraw their investments from LDBF, and that he reviewed the letter at least six more times after he redrafted the language and before the letter was sent to clients. Mr. Flannery reasonably believed that Mr. Duggan had all of the relevant facts he needed to review and approve the letter. Indeed, Mr. Duggan testified that he believed he had all of the information necessary to advise SSgA and that there was nothing about the letter that he would change even knowing what he knows now. See Ex. 3 at 47:25–51:24. Finally, Mr. Duggan discussed the letter with SSgA's outside securities law expert, Ms. Fries, who similarly was aware of the redemptions and the other relevant facts.

The SEC also alleges Mr. Flannery was negligent because the August 14 letter omitted "the illiquid nature of the remaining investments in the Fund and that the Fund's exposure to subprime was actually magnified through the use of credit default swaps, total return swaps, and repurchases

“... tied to subprime investments.” Order Instituting ¶ 40. That allegation, however, fundamentally misstates the undisputed evidence in this case. In fact, Mr. Flannery reasonably believed that both the legal and client relations departments, and LDBF clients, were aware of this information, and determined that the information need not be included in that particular letter (*e.g.*, because it was already known to clients):

- On July 26, Mr. Flannery reviewed the publicly available Money Management Letter article that featured LDBF, which said that “[t]he fund is *invested mostly in subprime* mortgage-backed securities”; that “SSgA’s Web site says *the strategy also uses derivatives* to eliminate interest rate risk”; and that “[s]ome of the firm’s other active fixed-income and large-cap enhanced index strategies have some exposure to [LDBF].”
- Months earlier, Mr. Flannery shared specific holdings information compiled by Patrick Armstrong with Mr. Brown, the Chief Marketing Officer. See SS 9186515–30; see also SS 574215 (providing detailed holdings information in July to the Executive Management Group, which included Mr. Brown); SEC Exhibit 620 (same).
- In a telling e-mail exchange Mr. Flannery had with Paul Greff and Ms. Kohler in response to questions clients were asking, Mr. Flannery said “I have already asked the active teams to provide more info [regarding] a number of questions and asked that they be ready by this morning.” SS 4004197. Included among the questions asked were: (a) what percentage of the fund was invested in subprime and had those investments changed from June to July; (b) what sectors within subprime is the fund currently invested; (c) what was the difference between the return of the swaps and the cash during the month of July; (d) what is the remaining position percentage and credit quality invested in ABX; (e) how much of July’s underperformance was due to ABX and how much was due to swaps; and (f) what has been the historic amount of ABS (or subprime) held. See SS 4004198. Those questions were answered the very morning they were raised. See SS 4004197–98. Indeed, Mr. Greff responded that “[w]e have detailed performance attribution for the above funds for the month of” July and “[t]his data should answer 99% of the questions” being asked by investors. SS 4004197.

The record is replete with evidence that, from Mr. Flannery’s perspective, disclosure obligations were being met, and his team was doing its part to make sure that the relationship team had any information it needed. Indeed, *the SEC concedes in its Order Instituting that the client relations department had the information it complains was not disclosed in the letter.* Specifically, the SEC acknowledges that the FAQs, which were provided to every person in the

client relations department, contained the information the SEC says should have been disclosed and that, in fact, the information was disclosed to certain clients. See Order Instituting ¶¶ 36, 40.

The SEC's complaint is that the information was not disclosed to all investors in a uniform manner.¹⁶ Stated simply, it was not within the scope of Mr. Flannery's job responsibilities to determine who received information and in what form. It is undisputed that this was the role of the client relations department. Mr. Flannery reasonably believed that once the information was provided to the client relations department—which the SEC necessarily concedes happened with the FAQs—it was client relations' responsibility, working in conjunction with legal, to determine how to deliver that information to clients. To the extent there was a selective disclosure problem, in that certain clients were receiving information that others were not, it was legal's job to identify that problem and work with client relations to resolve it.

To prove that Mr. Flannery acted negligently, the SEC must show that it was unreasonable for Mr. Flannery to rely on the company's expert securities lawyer, with whom he had worked for years and whom he believed was in possession of the relevant facts, for guidance as to whether any additional facts should have been disclosed in the August 14th letter. In other words, the SEC must prove that Mr. Flannery should have recognized that the letter might mislead investors when Mr. Duggan himself did not. Moreover, the SEC must also show that he was unreasonable in relying on SSgA's client relations department—the very people within the Company whose job it was to know what clients had and had not been told already. Clearly, the SEC will not be able to carry that burden. Accordingly, Mr. Flannery is entitled to summary disposition of the SEC's §§ 17(a)2 and 17(a)(3) claims.

¹⁶ Underlying the SEC's allegation against Mr. Flannery is dissatisfaction with SSgA's business model. The SEC would like the letters to be self-contained units with registration-like detail. These letters, however, *supplemented* information that SSgA already made available to investors and must be viewed in that light.

III. CONCLUSION

The undisputed facts clearly show that: (1) Mr. Flannery had insufficient involvement with the August 2nd letter for primary liability to attach; (2) Mr. Flannery could not have acted recklessly or negligently in connection with either letter because he actively involved, and relied in good faith on the advice of, knowledgeable, expert counsel; (3) Mr. Flannery was not negligent with respect to the August 14 letter because he followed the advice of SSgA counsel in connection with the letter, and reasonably believed that every allegedly omitted fact had in fact been disclosed; and (4) the SEC's § 17(a) claims fail because there is no evidence supporting several required elements of those claims. For these reasons, Mr. Flannery is entitled to summary disposition of all claims against him.

Dated: December 23, 2010

Respectfully Submitted,

Mark W. Pearlstein

Mark W. Pearlstein
Peter M. Acton, Jr.
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Attorneys for John Patrick ("Sean") Flannery

PMA w/permission

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)	
)	
JOHN P. FLANNERY and)	ADMINISTRATIVE PROCEEDING
JAMES D. HOPKINS)	FILE NO. 3-14081
)	
)	

AFFIDAVIT OF PETER M. ACTON, JR. IN SUPPORT OF JOHN (“SEAN”) PATRICK FLANNERY’S MOTION FOR SUMMARY DISPOSITION

I, Peter M. Acton, Jr., do hereby state as follows:

I am an attorney admitted to practice in Massachusetts. I am an associate in the law firm of McDermott Will & Emery LLP and represent John P. (“Sean”) Flannery in this matter. I am submitting this affidavit based upon by own personal knowledge in support of Mr. Flannery’s Motion for Summary Disposition, which is being filed herewith.

1. Attached hereto as **Exhibit 1** is a true and accurate copy of SEC Exhibit 153, as produced from the SEC’s investigative file.

2. Attached hereto as **Exhibit 2** is a true and accurate copy of the relevant portions of Sean Flannery’s transcript before the Securities Exchange Commission, as produced from the SEC’s investigative file.

3. Attached hereto as **Exhibit 3** is a true and accurate copy of the relevant portions of Mark J. Duggan’s transcript before the Securities Exchange Commission, as produced from the SEC’s investigative file.

4. Attached hereto as **Exhibit 4** is a true and accurate copy of the relevant portions of Mitchell H. Shames' transcript before the Securities Exchange Commission, as produced from the SEC's investigative file.

5. Attached hereto as **Exhibit 5** is a true and accurate copy of the relevant portions of Lawrence J. Carlson's transcript before the Securities Exchange Commission, as produced from the SEC's investigative file.

6. Attached hereto as **Exhibit 6** is a true and accurate copy of the relevant portions of William W. Hunt's transcript before the Securities Exchange Commission, as produced from the SEC's investigative file.

7. Attached hereto as **Exhibit 7** is a true and accurate copy of SEC Exhibit 14, as produced from the SEC's investigative file.

8. Attached hereto as **Exhibit 8** is a true and accurate copy of SEC Exhibit 16, as produced from the SEC's investigative file.

9. Attached hereto as **Exhibit 9** is a true and accurate copy of SEC Exhibit 80, as produced from the SEC's investigative file.

10. Attached hereto as **Exhibit 10** is a true and accurate copy SEC Exhibit 114, as produced from the SEC's investigative file.

11. Attached hereto as **Exhibit 11** is a true and accurate copy of SEC Exhibit 116, as produced from the SEC's investigative file.

12. Attached hereto as **Exhibit 12** is a true and accurate copy of the relevant portions of SEC Exhibit 235, as produced from the SEC's investigative file.

13. Attached hereto as **Exhibit 13** is a true and accurate copy of SEC Exhibit 262, as produced from the SEC's investigative file.

14. Attached hereto as **Exhibit 14** is a true and accurate copy of SEC Exhibit 318, as produced from the SEC's investigative file.

15. Attached hereto as **Exhibit 15** is a true and accurate copy of SEC Exhibit 405, as produced from the SEC's investigative file.

16. Attached hereto as **Exhibit 16** is a true and accurate copy of the relevant portions of SEC Exhibit 411, as produced from the SEC's investigative file.

17. Attached hereto as **Exhibit 17** is a true and accurate copy of the relevant portions of SEC Exhibit 412, as produced from the SEC's investigative file.

18. Attached hereto as **Exhibit 18** is a true and accurate copy of SEC Exhibit 460, as produced from the SEC's investigative file.

19. Attached hereto as **Exhibit 19** is a true and accurate copy of SEC Exhibit 558, as produced from the SEC's investigative file.

20. Attached hereto as **Exhibit 20** is a true and accurate copy of SEC Exhibit 568, as produced from the SEC's investigative file.

21. Attached hereto as **Exhibit 21** is a true and accurate copy of a document bates numbered SS-SEC 118350, as produced from the SEC's investigative file.

22. Attached hereto as **Exhibit 22** is a true and accurate copy of a document bates numbered FLAN01597-99, as produced from the SEC's investigative file.

23. Attached hereto as **Exhibit 23** is a true and accurate copy of a document bates numbered SSP 58309, as produced from the SEC's investigative file.

24. Attached hereto as **Exhibit 24** is a true and accurate copy of a document bates numbered SS-SEC 118389, as produced from the SEC's investigative file.

25. Attached hereto as **Exhibit 25** is a true and accurate copy of a document bates numbered SS-SEC 103652-53, as produced from the SEC's investigative file.

26. Attached hereto as **Exhibit 26** is a true and accurate copy of a document bates numbered SS-SEC 000120201, as produced from the SEC's investigative file.

27. Attached hereto as **Exhibit 27** is a true and accurate copy of a document bates numbered SS-SEC 120127, as produced from the SEC's investigative file.

28. Attached hereto as **Exhibit 28** is a true and accurate copy of a document bates numbered SS-SEC 120219, as produced from the SEC's investigative file.

29. Attached hereto as **Exhibit 29** is a true and accurate copy of a document bates numbered SS-SEC 119624-26, as produced from the SEC's investigative file.

30. Attached hereto as **Exhibit 30** is a true and accurate copy of a document bates numbered SS-SEC 103835, as produced from the SEC's investigative file.

31. Attached hereto as **Exhibit 31** is a true and accurate copy of a document bates numbered SS-SEC 119619-21, as produced from the SEC's investigative file.

32. Attached hereto as **Exhibit 32** is a true and accurate copy of a document bates numbered SS-SEC 103811-12, as produced from the SEC's investigative file.

33. Attached hereto as **Exhibit 33** is a true and accurate copy of a document bates numbered SS-SEC 103817-18, as produced from the SEC's investigative file.

34. Attached hereto as **Exhibit 34** is a true and accurate copy of a document bates numbered SS-SEC 119627-31, as produced from the SEC's investigative file.

35. Attached hereto as **Exhibit 35** is a true and accurate copy of a document bates numbered SS-SEC 103873, as produced from the SEC's investigative file.

36. Attached hereto as **Exhibit 36** is a true and accurate copy of a document bates numbered SS-SEC 119675-76, as produced from the SEC's investigative file.

37. Attached hereto as **Exhibit 37** is a true and accurate copy of a document bates numbered SS-SEC 119215-18, as produced from the SEC's investigative file.

38. Attached hereto as **Exhibit 38** is a true and accurate copy of a document bates numbered SS-SEC 119638-41, as produced from the SEC's investigative file.

39. Attached hereto as **Exhibit 39** is a true and accurate copy of a document bates numbered SS-SEC 119624-26, as produced from the SEC's investigative.

40. Attached hereto as **Exhibit 40** is a true and accurate copy of a document bates numbered SS-SEC 103874, as produced from the SEC's investigative file.

41. Attached hereto as **Exhibit 41** is a true and accurate copy of a document bates numbered SS-SEC 103835, as produced from the SEC's investigative file.

42. Attached hereto as **Exhibit 42** is a true and accurate copy of a document bates numbered SS-SEC 119619-21, as produced from the SEC's investigative file.

43. Attached hereto as **Exhibit 43** is a true and accurate copy of a document bates numbered SS-SEC 119675-76, as produced from the SEC's investigative file.

44. Attached hereto as **Exhibit 44** is a true and accurate copy of a document bates numbered SS-SEC 103875-76, as produced from the SEC's investigative file.

45. Attached hereto as **Exhibit 45** is a true and accurate copy of a document bates numbered SS-SEC 119659-61, as produced from the SEC's investigative file.

46. Attached hereto as **Exhibit 46** is a true and accurate copy of a document bates numbered SS-SEC 103873, as produced from the SEC's investigative file.

47. Attached hereto as **Exhibit 47** is a true and accurate copy of a document bates numbered SS-SEC 119215-18, as produced from the SEC's investigative file.

48. Attached hereto as **Exhibit 48** is a true and accurate copy of a document bates numbered SS-SEC 118346-50, as produced from the SEC's investigative file.

49. Attached hereto as **Exhibit 49** is a true and accurate copy of a document bates numbered SS-SEC 118355-58, as produced from the SEC's investigative file.

50. Attached hereto as **Exhibit 50** is a true and accurate copy of a document bates numbered SS-SEC 118346-50, as produced from the SEC's investigative file.

51. Attached hereto as **Exhibit 51** is a true and accurate copy of a document bates numbered SS-SEC 118351-54, as produced from the SEC's investigative file.

52. Attached hereto as **Exhibit 52** is a true and accurate copy of a document bates numbered SS-SEC 103659-60, as produced from the SEC's investigative file.

53. Attached hereto as **Exhibit 53** is a true and accurate copy of a document bates numbered SS-SEC 103661-63, as produced from the SEC's investigative file.

54. Attached hereto as **Exhibit 54** is a true and accurate copy of a document bates numbered SS-SEC 118389-98, as produced from the SEC's investigative file.

55. Attached hereto as **Exhibit 55** is a true and accurate copy of a document bates numbered SS-SEC 103667-70, as produced from the SEC's investigative file.

56. Attached hereto as **Exhibit 56** is a true and accurate copy of a document bates numbered SS-SEC 132851-55, as produced from the SEC's investigative file.

57. Attached hereto as **Exhibit 57** is a true and accurate copy of a document bates numbered SS 3837013, as produced from the SEC's investigative file.

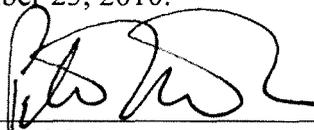
58. Attached hereto as **Exhibit 58** is a true and accurate copy of a document bates numbered SS 446276, as produced from the SEC's investigative file.

59. Attached hereto as **Exhibit 59** is a true and accurate copy of a document bates numbered SS 7128506-09, as produced from the SEC's investigative file.

60. Attached hereto as **Exhibit 60** is a true and accurate copy of a document bates numbered SEC Ex. 662, as produced from the SEC's investigative file.

61. Attached hereto as **Exhibit 61** is a true and accurate copy of a document bates numbered SEC Ex. 308, as produced from the SEC's investigative file.

Sworn under the penalties of perjury on December 23, 2010.



Peter M. Acton, Jr.

EXHIBIT 1

[REDACTED]

EXHIBIT
153
B-02820
1/21/08 MLS

[REDACTED]

[REDACTED]

[REDACTED]

EXHIBIT 2

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)
STATE STREET) File No. B-02320
GLOBAL ADVISORS)

WITNESS: Sean Flannery

PAGES: 1 through 171

PLACE: Securities and Exchange Commission
33 Arch Street, Suite 2300
Boston, Massachusetts

DATE: Monday, March 30, 2009

The above-entitled matter came on for hearing, pursuant
to notice, at 9:35 a.m.

Diversified Reporting Services, Inc.

(202) 467-9200

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1 product engineer in fixed income.
2 Q But was he the product engineer responsible for
3 LDBF?
4 A He was responsible for that, but I don't know that
5 he was exclusively responsible for it.
6 Q Okay. If we can focus on just 2007, in that
7 timeframe. Do you believe that it would be appropriate for
8 SSgA to describe LDBF as an enhanced cash strategy during
9 that time period?
10 MR. PEARLSTEIN: Are you asking him, as he sits
11 here today?
12 MR. BAKER: Sure.
13 THE WITNESS: Well, certainly knowing what I know
14 today about the dislocation in the market, I would say, no.
15 BY MR. BAKER:
16 Q And so at what point in time, in 2007, would it
17 have ceased to be acceptable for you, at least, to refer to
18 the LDBF strategy as enhanced cash?
19 MR. PEARLSTEIN: When you say, "You," you mean
20 "SSgA" as opposed to him, because I don't think you have
21 established that he ever described it, personally, as
22 enhanced cash.
23 BY MR. BAKER:
24 Q Well, you were the CIO in 2007 of the structure
25 LDBF was included in; is that correct?

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1 A Yes.
2 Q So in your view, at what point in time would it
3 have no longer been acceptable to refer to LDBF as enhanced
4 cash?
5 MR. WOLKOFF: I am going to object to the line of
6 questioning, because you are taking in isolation a possible
7 reference to the Limited Duration Bond Fund and isolating it
8 from other disclosures and descriptions, and just focusing on
9 one phrase. But, obviously, he can go ahead and answer it,
10 but I want that clear that you are focusing on one item that
11 may or may not have been said, but there is a context in
12 which there was a fuller disclosure.
13 MR. PEARLSTEIN: You can go ahead and answer.
14 THE WITNESS: Would you repeat the question,
15 please?
16 MR. BAKER: Can you repeat it back?
17 (The reporter read back the record.)
18 BY MR. BAKER:
19 Q Do you get the question?
20 A Yes, I get the question, but what I'm struggling
21 with is that I don't -- I think I explained that I don't know
22 that they would have called it an enhanced cash strategy in
23 the first place. So when I hear the question, so maybe we
24 need to -- I'm not sure how to respond to it, I guess, given
25 that.

Page 60

1 Q All right. Recognizing that you don't recall, or
2 do you recall ever referring to LDBF as enhanced cash?
3 A I don't recall that, no.
4 Q So recognizing that as a fact, in your view, at
5 what point in time would it no longer have been appropriate
6 to refer to LDBF as enhanced cash?
7 MR. PEARLSTEIN: Objection, you can answer.
8 MR. WOLKOFF: I have the same objection.
9 MR. PEARLSTEIN: You can go ahead and answer.
10 THE WITNESS: Okay.
11 I will say as the markets seized, began to seize
12 up.
13 BY MR. BAKER:
14 Q So is that, when is that, can you put a month on
15 that?
16 A Well, I would say, July of '07. We had some
17 indications in June, but July is when, I think, things really
18 got very difficult.
19 Q July, 2007?
20 A That's correct.
21 Q So when you first became aware of the LDBF
22 strategy, and I think you testified that you thought it was
23 near inception; is that correct?
24 A Yes.
25 Q Okay. When you first became aware of the LDBF

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1 strategy, what did you know about the types of investments
2 that LDBF was invested in?
3 A I don't know that I really knew anything other than
4 high quality and short-term at that time, I wouldn't have
5 necessarily known the specifics.
6 Q How about general sectors, did you have any
7 understanding when the fund was, first started trading, first
8 became available to investors?
9 A Securitized assets.
10 Q Let's go to 2007 then. In the beginning of 2007,
11 what did you know about the types of investments that LDBF
12 was invested in?
13 A I knew it was invested in securitized assets.
14 Q Did you know what types of securitized assets LDBF
15 was invested in, in early 2007?
16 A I knew it was focused more toward housing-related
17 assets, but the specific asset allocation within any of the
18 funds, given my role, isn't one that I would necessarily be
19 aware of in detail.
20 Q How did you know that the fund was, I think your
21 words were, "Focused on housing-related assets," how did you
22 know that in early 2007?
23 MR. WOLKOFF: "Focused more toward."
24 MR. BAKER: "Focused more toward."
25 BY MR. BAKER:

1 MR. PEARLSTEIN: It was early.
 2 THE WITNESS: Early in the first quarter?
 3 I'm sorry.
 4 MR. BAKER: Can you read it back, please?
 5 (The reporter read back the record.)
 6 MR. WOLKOFF: Subprime asset-backed securities?
 7 THE WITNESS: Okay. So the question was --
 8 BY MR. BAKER:
 9 Q Let me just strike that; I will read it over, okay?
 10 A Okay.
 11 Q And I think the court reporter read it correctly,
 12 but, in the first quarter of 2007, did you have an
 13 understanding of what the percentage of LDBF was invested in
 14 subprime mortgage-backed securities?
 15 A I suspect that, at least by the end of the first
 16 quarter, I was aware of the concentration in subprime
 17 asset-backed securities.
 18 Q And what was your -- did you have a general
 19 understanding of what that concentration was, in percentage
 20 terms?
 21 A High. I don't recall specifically, no.
 22 Q How about a ballpark, more than a certain percent?
 23 MR. PEARLSTEIN: Do you want him to speculate at
 24 this point?
 25 MR. BAKER: No, I don't want him to speculate.

1 BY MR. BAKER:
 2 Q I'm wondering if you can say it was definitely more
 3 than a certain percent?
 4 A I don't think I can say that it was definitely more
 5 than a certain percent. I know that it was emphasized in the
 6 portfolio.
 7 Q And did SSgA communicate, let's say, in the first
 8 quarter of 2007, did SSgA communicate to LDBF investors about
 9 what the exposure was in LDBF to home equity?
 10 A I believe they did.
 11 Q Okay. And what was that communication?
 12 A I believe that Jim Hopkins, you know, created, as
 13 we would every quarter, a communication on LDBF, there may
 14 have been others.
 15 Q And do you have a recollection of that
 16 communication on LDBF? And when we say, "LDBF," I will use
 17 it sometimes too, it's the same as LDBF, in terms of the
 18 spelling, all caps, L-D-B-F. What is your understanding of
 19 any sort of communication Mr. Hopkins created about LDBF's
 20 exposure to home equity in the first quarter of 2007?
 21 A Well, there had been sharp underperformance, and so
 22 it required some explanation of both what happened and our
 23 analytical view toward the sector and the strategy.
 24 Q Can you actually recall a communication that Mr.
 25 Hopkins created in the first quarter of 2007, about exposure

1 to home equity in LDBF?
 2 A I can't see it in my mind, but I believe he
 3 authored one during that period.
 4 Q And who is the audience of this communication?
 5 A I would assume clients.
 6 Q Is it a written communication?
 7 A There was a written communication.
 8 Q Again, in the first quarter of 2007, about LDBF?
 9 A I believe so. Again, I don't know for certain, but
 10 I'm pretty sure he wrote about that.
 11 Q Okay. And you're pretty sure that he wrote about
 12 LDBF's exposure to home equity in the first quarter of 2007,
 13 in something that went to clients?
 14 A I don't remember specifics of what he wrote, but to
 15 the extent he described what had happened, I would take that
 16 to mean that he described something about the home equity
 17 loan market, and why that hadn't affected the portfolio.
 18 Q Did you direct that a communication go to clients
 19 in the first quarter of 2007 about exposure of LDBF to home
 20 equity?
 21 A I don't remember directing that, but we always
 22 tried to communicate well with our clients.
 23 Q Well, did you have any role in deciding whether or
 24 not a communication would go to clients in LDBF, in the first
 25 quarter of 2007, about exposure to home equity?

1 A I probably took part in discussions about that.
 2 Q You say "probably," do you know that one way or the
 3 other?
 4 A I mean, ultimately, it would have been an issue
 5 decided by client service, and, you know, perhaps the legal
 6 team or compliance in that team, in terms of "to whom and how
 7 the information was distributed," so I may have been in
 8 discussions about that, but I would not have directed that.
 9 Q The client team wasn't a team that reported to you;
 10 is that correct?
 11 A That's correct.
 12 Q They had their own reporting structure?
 13 A That's right.
 14 Q And legal didn't report to you?
 15 A That's right.
 16 Q Okay. So in this first quarter of 2007 timeframe,
 17 what role would you have in deciding what clients would
 18 actually get, in terms of documents or information about
 19 LDBF?
 20 MR. PEARLSTEIN: Are you asking what role did he
 21 have?
 22 MR. BAKER: I'm trying to understand if he had any
 23 role, first of all.
 24 BY MR. BAKER:
 25 Q So I understand there is client reporting, they

1 don't report to you, legal doesn't report to you, and that
 2 they would, I think you said they would have directed that
 3 communication, if any, to clients. What sort of input would
 4 you have?
 5 A The investment teams would be responsible for
 6 creating the content, subject to review by others, but the
 7 informational content of such a communication, it was not the
 8 responsibility of the investment team to determine to whom,
 9 if anyone, those, whatever they might be, those reports or
 10 commentaries, might be distributed.
 11 Q Did LDBF use leverage?
 12 A Yes.
 13 Q At what point in time?
 14 A I believe LDBF used leverage since inception.
 15 Q And, let's say, in 2007, the first quarter, what
 16 did you know about how LDBF was using leverage?
 17 A I was aware that there was exposure to swaps of
 18 different types. And that's, I guess, primarily what I think
 19 of.
 20 Q Can you think of anything else that you knew in the
 21 first quarter of 2007, with regard to how LDBF was using
 22 leverage?
 23 A No, I guess, not specifically. The portfolio
 24 construction in individual strategies was something that, you
 25 know, was not something that would come across my desk

1 review, at least quarterly, those portfolios with them. And
 2 typically, it might be Mike Wands or other senior members of
 3 the team.
 4 Q Okay. So when you said "breach of guidelines," are
 5 you referring to guidelines at a fund level, or guidelines at
 6 a client level, or something else?
 7 A Guidelines at a fund level. Now, let me be
 8 specific. If it is a separate account, then it's a client
 9 account, so it's the client level.
 10 Q It is the same thing?
 11 A Right.
 12 Q And LDBF was not a separate account; is that
 13 correct?
 14 A That's correct.
 15 Q So there were clients that were invested in the
 16 strategy?
 17 A So in that case, the applicable guidelines would be
 18 the fund declaration.
 19 Q Did you come to learn more in 2007, I guess after
 20 the first quarter, about how LDBF was using leverage?
 21 A Yes.
 22 Q What did you learn?
 23 A I just, as we looked at the performance issues, you
 24 know, we would see the contributions to perform at different
 25 types of trades they had on. I don't have specific

1 necessarily, you know, unless there was a breach of
 2 guidelines.
 3 Q When you say "breach of guidelines," what do you
 4 mean?
 5 A If a review of a portfolio found that there was
 6 some type of breach in investment guidelines, I would likely
 7 hear about it from compliance, my risk management team, and
 8 it was a standing question that I asked all of my direct
 9 reports in our one-on-one meetings.
 10 Q Did you have one-on-one meetings with the LDBF
 11 portfolio managers on a regular basis?
 12 A No. I would have one-on-one meetings with Paul
 13 Greff.
 14 Q How about the one-on-one meetings, did those
 15 meetings go below Paul Greff, in terms of the bond funds, do
 16 you know?
 17 A Oh, yes, I mean, he had a responsibility to have
 18 those meetings, just as I did, with his own direct reports.
 19 And there were monthly and quarterly portfolio reviews with
 20 the risk management team and a member of compliance.
 21 Q Those would be the only two groups involved in
 22 these monthly or quarterly portfolio management meetings,
 23 risk management and compliance?
 24 A Well, it would be the portfolio managers and Paul
 25 Greff, if he were there, and, you know, he was required to

1 recollections of individual trades, you know, at this point.
 2 Q You would actually get that information, though?
 3 A The only reason I got that information was because
 4 we had an unusual set of circumstances, and I was looking
 5 into it directly. Normally, as I mentioned, this information
 6 would not, in the course of things, reach me, given my role.
 7 Q And what was this information, can you describe it
 8 a little bit more specifically?
 9 A I guess I'm trying to respond to the information
 10 you asked me about, you asked me about leverage, I believe.
 11 Q Yes, and we will come back to that. But you said
 12 you would review some sort of information concerning trades,
 13 what was that information?
 14 A What I'm saying is that, as this liquidity crisis
 15 deepened, we went into much, you know, I got involved in much
 16 greater level of detail than I would under normal
 17 circumstances. Typically, I wouldn't be aware of specific
 18 trades in any of the equity, currency, or other portfolios,
 19 you know, teams that reported up into me, that -- I had the
 20 whole staff of investment people whose job it was to look at
 21 those specifics.
 22 Q But at some point in time, with regard to LDBF, did
 23 you start to become aware of specific trades?
 24 A Yes.
 25 Q When was that?

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. B-02320-A

5 STATE STREET GLOBAL ADVISORS)

6

7 WITNESS: John Patrick Flannery

8 PAGES: 573 through 808

9 PLACE: Securities and Exchange Commission

10 33 Arch Street, Suite 2300

11 Boston, Massachusetts

12 DATE: Tuesday, May 5, 2009

13

14 The above-entitled matter came on for hearing, pursuant
15 to notice, at 8:57 a.m.

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24 Diversified Reporting Services, Inc.

25 (202) 467-9200

1 MR. PEARLSTEIN: Objection. You can answer.
 2 THE WITNESS: I don't know.
 3 BY MR. BAKER:
 4 Q Let's move on to the August 2 letter which appears
 5 at the bottom of page 2 of the exhibit and runs on through
 6 the top of page 4. And you've had a chance to review that
 7 letter as well; is that correct?
 8 A I have.
 9 Q Now, this is a form letter, obviously, but have you
 10 seen any version of this letter?
 11 A I don't believe I've seen a version of this letter.
 12 Q Okay. Did you see a draft of this letter before it
 13 went out?
 14 A I don't recall seeing one.
 15 Q Did you have any communications with anyone
 16 concerning this letter or some version of it before it went
 17 out? Even if you didn't see the letter, did you have any
 18 communications about the letter?
 19 A I don't recall any specific conversations about
 20 that, no.
 21 Q How about anything at all?
 22 A I mean to the extent this covers some information
 23 that was covered elsewhere, I may have had conversations
 24 with -- about that. But I don't recall one specifically
 25 relating to this letter.

1 Q Well, do you know if you were asked for input on
 2 this letter?
 3 A I don't recall.
 4 Q Do you know of anyone who was asked for their input
 5 on this letter?
 6 A No, I don't recall.
 7 Q Do you know who drafted the letter?
 8 A No.
 9 Q Do you know who decided that SSgA would create the
 10 letter?
 11 A I'm not certain.
 12 Q Well, did you have any discussions with anyone
 13 about who had decided that the letter would go out in early
 14 August 2007 concerning the affected funds?
 15 A I have vague recollections of the desire to send
 16 out a letter to clients somewhere in this time frame.
 17 Q And what do you recall about that?
 18 A Just that there was a need to provide information
 19 to clients.
 20 Q Anything else?
 21 A Not that I can recall.
 22 Q How about what information, there was a need to
 23 provide information to clients?
 24 A No, I guess I don't have a recollection of --
 25 Q Well, did you have any communications with anyone

1 in July or August 2007 about whether to notify clients about
 2 the total subprime exposure in the Limited Duration Bond Fund
 3 or the funds invested in that fund?
 4 A I recall that there were questions being asked
 5 about the total subprime exposure in those funds.
 6 Q What do you recall about that?
 7 A That we needed to calculate the exposure across the
 8 funds to subprime.
 9 Q And how about the specific issue of whether SSgA
 10 should or should not notify clients of the affected funds of
 11 their subprime exposure, any communications with anyone about
 12 that? Again, in this July/August time frame.
 13 A No. I think the nature of what would be disclosed
 14 would have been determined by compliance and legal.
 15 Q Does that mean you don't recall having any
 16 conversations about whether to communicate to clients the
 17 total subprime exposure and the affected funds in the
 18 July/August time frame?
 19 A I don't recall a conversation like that.
 20 Q Okay. And how about the leverage used by the
 21 Limited Duration Bond Fund and the affected funds? Any
 22 communications with anyone in the July/August 2007 time frame
 23 about whether SSgA should or shouldn't communicate that to
 24 clients?
 25 A There were discussions about the means by which we

1 would -- the different means by which we would define
 2 leverage, and provide information.
 3 Q How about on the issue of whether to provide any
 4 information to clients about leverage, to all clients? Did
 5 that come up?
 6 A I don't remember a conversation about that.
 7 Q So the only thing you can remember about leverage-
 8 related conversations is just how to describe leverage if the
 9 question came up?
 10 A No. I remember discussions about how we should --
 11 the different means of calculating and providing the
 12 information.
 13 Q And what do you mean by providing information?
 14 A Creating that information internally. I didn't
 15 know how that would be used.
 16 Q Okay. So you were involved in, I guess, how to
 17 describe it, but not whether it actually went to any clients?
 18 A That's correct.
 19 Q Okay. And on the issue of raising liquidity by
 20 month end July 2007 in anticipation of redemptions, did you
 21 have any communications with anyone about whether that
 22 subject should go out to all clients in the affected funds,
 23 any communications with anyone in the July/August 2007 time
 24 frame?
 25 A I don't recall a conversation about that, no.

1 Q Okay. And on the issue of the fact that the
2 fiduciary groups, OFA, CAM, and GAA, either liquidated,
3 decided to liquidate, or decided to recommend liquidation of
4 the Limited Duration Bond Fund and the affected funds, any
5 communications with anyone in July or August of 2007
6 concerning whether SSgA should communicate that fact to
7 clients?

8 A No. I believe, as I mentioned, I believe that was
9 a compliance and legal issue.

10 Q Let's go on to the August 6th letter, which appears
11 on page 4, top of page 5 of this exhibit. You've had an
12 opportunity to read that letter; is that correct?

13 A I have.

14 Q Okay. Now, did you -- again, this is another form
15 letter, but did you see a version of this letter prior to
16 your testimony today?

17 A I don't believe I did, no.

18 Q So were you asked to comment or asked to provide
19 input on a communication at least similar to the one we see
20 here for the August 6th letter?

21 A I don't recall being asked to comment on anything
22 about this letter. This letter has some information that
23 appears to be derivative from prior conversations -- from
24 prior communications, rather.

25 Q So you were aware of the issue, but you weren't

1 believe in this asset class, in the Limited Duration Bond
2 strategy, but need to manage the underlying assets directly
3 because of their own respective daily liquidity requirements
4 and their desire not to be negatively impacted by the
5 liquidity decisions of others."

6 Can you just explain the "desire not to be
7 negatively impacted by the liquidity decisions of others,"
8 what that means?

9 A Yes. The idea would be by taking the assets in
10 kind into another portfolio, they could then manage purely to
11 the liquidity needs of that particular portfolio instead of
12 being affected by liquidity demands at the core portfolio
13 itself.

14 Q Okay. And can you just explain why somebody in a
15 commingled fund during this July/August 2007 time frame might
16 prefer to be in a fund that they aren't affected by liquidity
17 decisions of others?

18 A Where they are not affected by?

19 Q Might prefer to be in a fund where they're not
20 affected by.

21 A Yes. The idea would be many clients' -- I believe
22 many clients' and our view was that these assets were
23 continuing to pay, they were continuing to generate cash
24 flows, and the market conditions were stressed. So that
25 if -- our belief was if you held on to them, there was a good

1 aware of what was being communicated to clients about it; is
2 that correct?

3 A Yeah. I was not -- I don't recall ever seeing the
4 form letter that went out.

5 Q All right. Well, did you know that clients were
6 going to get some sort of a form letter about creating, I
7 think you called it in your prior testimony, sister funds?

8 A I knew that was going to be communicated. I don't
9 know that I knew the form by which it would be communicated.

10 Q And were you asked for your input on the
11 communication, the sister funds issue?

12 A I was involved in conversations about the creation
13 of those sister funds.

14 Q But not about how to communicate that to clients?

15 A Not that I recall, no.

16 Q There is a sentence here, it's right before the
17 bolded section, if you can see the bolded second near the
18 bottom of page 4, that just describes the fact that these
19 sister funds will be created. Who decided that that would
20 happen?

21 A I don't know who ultimately took the -- took the
22 decision to create the two types of funds.

23 Q Okay. And in this section I was referring to, it
24 says -- let me just read the whole sentence for completeness.

25 "The SSgA funds are taking this step because they continue to

1 chance of a better outcome.

2 Q And just the flip side of that coin, that if you
3 have to sell in order to meet liquidity, what does that mean?

4 A Well, you know, there's no perfect foresight, but
5 generally the maxim would be that you would try to avoid
6 selling when the market was starved for liquidity. And
7 clearly the market could deteriorate more, and it could end
8 up that that was a wise decision after all. But our view
9 going forward would be that, in this case, was we thought it
10 was better to offer the option to not be forced into creating
11 liquidity.

12 Q Okay. Well, is there an issue about a fear that
13 the price of the fund might drop strictly as a result of
14 needing to sell assets and not because of the fundamentals of
15 the assets in an illiquid market?

16 A May I have that question again, please?

17 MR. BAKER: Read it back, Jim.

18 (The reporter read back the record.)

19 THE WITNESS: Now, they -- yes. I mean potentially
20 it could be a problem. Again, no one could know for certain,
21 but generally our preference is -- would be to not to be
22 forced to sell when we felt that there was a chaotic and
23 illiquid market.

24 BY MR. BAKER:

25 Q Okay. Let's move on to the August 14th letter,

1 A I really don't have much recollection of -- I
 2 remember a meeting with Bill to discuss the letter, but I
 3 don't know if it was before or after the letter was drafted.
 4 Q Do you know if it was before or after the letter
 5 was sent to clients?
 6 A I had a discussion with Bill before the letter was
 7 written.
 8 Q Was there one conversation before the letter was
 9 written or more than one about sending the letter?
 10 A I'm not certain.
 11 Q Okay. Well, what do you remember about the
 12 conversation you had with Mr. Hunt prior to you writing the
 13 letter, the August 2007 letter sent under your name?
 14 MR. PEARLSTEIN: Do you mean prior to sending it
 15 out?
 16 MR. BAKER: I think prior to drafting it is my
 17 question. That's his testimony.
 18 THE WITNESS: Yes. I recall meeting in his office
 19 and telling him that I thought that -- that I thought we
 20 should send out a letter. I thought I should send out a
 21 letter describing, as best we could, what was going on in the
 22 market.
 23 BY MR. BAKER:
 24 Q Anyone else in his office at that meeting?
 25 A Not that I recall.

1 letter or were there other topics that came up in the meeting
 2 as well?
 3 A I don't recall. If it were a regularly scheduled
 4 meeting, we would have gone through some other things. If it
 5 was about this, it would have just been about this. I don't
 6 know.
 7 Q Okay. At least you can't think of any other topics
 8 that came up at the meeting?
 9 A I can't, no.
 10 Q Okay. So did you raise the issue about sending a
 11 letter under your name or did he raise that at this meeting?
 12 A I raised that issue.
 13 Q And what specifically, in as much detail as you can
 14 recall, did you say about that?
 15 A I said that our client service people were
 16 reporting that our clients were looking for more information,
 17 and I felt it was important to -- to provide them with some
 18 sort of information.
 19 Q Anything else about what you told Mr. Hunt that you
 20 can remember?
 21 A I told him that I wanted -- you know, that I was
 22 willing to send that out under my name, and I thought it was
 23 the right thing to do.
 24 Q Anything else you can remember about what you told
 25 him?

1 Q When was the meeting?
 2 A I'm not certain.
 3 Q Did you take any notes during the meeting?
 4 A I may have. I don't have my notes, so -- it may be
 5 in my notes.
 6 Q Okay. You don't recall one way or the other,
 7 though?
 8 A I don't recall taking notes.
 9 Q How about memorializing the meeting other than in
 10 notes? Did you do that?
 11 A It was frequently my practice to do that. I don't
 12 know that I did in this case.
 13 Q And what was your practice specifically?
 14 A I usually just took handwritten notes.
 15 Q Okay. But other than notes, I mean did you go back
 16 and type in anywhere, "This is what happened in the meeting"?
 17 A I don't recall doing that.
 18 Q And did you have this meeting with Mr. Hunt as a
 19 previously scheduled meeting or did you just go to his
 20 office?
 21 A I don't know whether it was a regularly scheduled
 22 meeting or separate one.
 23 Q How long was the meeting?
 24 A Don't know.
 25 Q And was the meeting only about whether to send a

1 A About what I told him. No.
 2 Q And you said your client service people were
 3 looking for more information. What were they looking for?
 4 A Well, just in general the client service people
 5 were frustrated that there were a lot of delays in providing
 6 information to the clients.
 7 Q Were they specific, the client service people, in
 8 what types of information they wanted to have included in the
 9 letter?
 10 A They may have been. I don't really recall.
 11 Q Tell me more about these delays that caused
 12 frustration.
 13 A I think there was an effort to make sure -- very
 14 chaotic market conditions, things changing very rapidly, and
 15 just there hadn't been a lot of information that had been
 16 sent out, and the client service people were getting a lot of
 17 questions.
 18 Q I guess stepping out, and we'll come back to this
 19 conversation, but the late July '07 letter that we see on
 20 page 2, I have a question about it. But do you recall
 21 frustration concerning the time that it took to get that
 22 letter out to clients?
 23 A Yes.
 24 Q What do you recall about that?
 25 A Just that the -- historically our practice was to

1 get information out to clients, you know, whenever they
2 requested it, as soon as we could possibly do it, and it
3 seemed like this process had gotten encumbered and wasn't
4 moving very quickly.

5 Q And tell me more about that, the process being
6 encumbered and not moving quickly; why was that happening, in
7 your view at the time?

8 A I don't know. The decision-making process for
9 actually sending something out certainly wasn't ultimately up
10 to me. So I got the sense that these conversations were
11 going on between Marc Brown and Bill Hunt and perhaps legal.

12 Q Well, in what sense did you get, even if you
13 weren't directly involved in some of the communications, what
14 was your sense about the reasons why the process was
15 encumbered with regard to the late July letter in getting
16 that out?

17 A What I recall -- I shouldn't say what I recall.
18 What I believe, it had to do with getting Bill's sign-off to
19 send something out.

20 Q Okay. So Mr. Hunt needed to sign off on -- we'll
21 flip back to your letter in a minute. But he needed to sign
22 off on the July 27, '07 form letter that we see in Exhibit
23 251?

24 A I don't know if he needed to, but in that
25 situation, at least, that was part of the process.

1 A Well, to the extent there's a reconciliation
2 problem, it would by definition extend to performance.

3 Q Well, can you provide any more, I guess, substance
4 on what this issue was other than what you already have?

5 A I think toward the end of July, or maybe it was
6 August, again, I'm not certain this was before this letter,
7 there -- we had a lot of turnover in operations, and there
8 was -- there were getting to be some backups in
9 reconciliation of positions, custody versus the portfolio
10 management systems.

11 Q Are there any other impressions that you had in
12 this July time frame, other than Mr. Hunt being -- having to
13 sign off on the letter and some operations-related issues, as
14 to why the letter was held up?

15 A I wasn't privy to, you know, who, again, from a
16 legal or a compliance standpoint, what -- what may have gone
17 through that level. So there may have been something there.
18 I don't know.

19 Q Okay. Anything else?

20 A Not that I can think of.

21 Q Did you have any communications with anyone in
22 particular about this whole issue of a letter being held up
23 in July?

24 A Are we talking about this July 27th letter?

25 Q Yes.

1 Q Okay. So that was one reason why it was held up
2 for some time?

3 A That's only the impression I get from just what
4 was -- what was going on around me.

5 Q Okay. What other impressions did you have about
6 the delay or the encumbrance of getting a letter out in July?

7 A I'm not certain about the time frame, but I think
8 there may have been some systems issues with respect to
9 operations providing some of the data.

10 Q Is that that Onyx thing you were referring to
11 earlier about getting the communications out?

12 A No. That would have been more related to the
13 accounting side of things.

14 Q What do you mean?

15 A They -- at some point, I'm not sure it was July, it
16 could have been after that, I think there was some -- some
17 systems-related problems in getting out some of the
18 information.

19 Q Are you talking like numerical data about how the
20 fund performed or are you talking about something else? I'm
21 just not following.

22 A It could have been -- could have been performance-
23 related or relating to -- what's the word I'm looking for?

24 Reconciliation between the systems.

25 Q And are these performance-related systems?

1 A I may have. I don't have a recollection.

2 Q Okay. So let's go back to the meeting that you had
3 with Mr. Hunt where you were in his office and you're talking
4 about whether to draft a letter and the letter hasn't been
5 drafted yet; is that correct?

6 A That's correct.

7 Q And it's a letter that's going to go out
8 potentially under your name?

9 A Yes.

10 Q Okay. And you just described what you said to Mr.
11 Hunt. What did he say in response?

12 A His first response was that he didn't think it was
13 a good idea.

14 Q Did he just say that or did he elaborate?

15 A Well, I mean he couldn't -- he was questioning why
16 I would want to send out a letter like that.

17 Q Okay. Can you be a little more specific? Was his
18 issue that the letter maybe shouldn't go under your name or
19 there shouldn't be a letter at all or something other than
20 that?

21 A I don't recall a question of -- I told him I wanted
22 to send it out under my name.

23 Q Okay.

24 A I think he was not certain that -- that it made
25 sense to send out this letter.

1 Q Any letter about the substantive content that you
2 wanted to send?
3 A I think we were talking about the letter that I
4 wanted to write.
5 Q Okay. So his issue was a letter, not it going out
6 under your name being an issue?
7 A Well, I do think he wondered why I would be willing
8 to send out a letter.
9 Q Okay. Did Mr. Hunt elaborate at all?
10 A He said something to the effect of, you know, "Why
11 would you raise your head up?" In other words, that it would
12 likely make more things -- the impression at least I got from
13 what he said was that it was risky for me to do that.
14 Q To send a letter under your name?
15 A Yes.
16 Q And did he elaborate at all on that?
17 A I -- I don't recall that. And he did ultimately
18 agree to it.
19 Q Well, did he agree to it at this meeting or after
20 the meeting?
21 A I think he agreed at that meeting.
22 Q Okay. So what was your response? I mean he raises
23 this as an issue, "Why do you want to put yourself out
24 there," and then what do you say?
25 A My response is that I think we owed our clients an

1 explanation of what was going on. Our practice had always
2 been to be very forthcoming, and, you know, the market was in
3 disarray. We needed to -- my view was we needed to explain
4 as best we could what was going on in this marketplace.
5 Q Well, and how about on the issue of whether the
6 letter should go under your name or just the "Dear valued
7 client" signed by SSgA type letter that came out July 27th?
8 Did you provide any reasoning on why it should go under your
9 name instead of just the SSgA?
10 A I just -- I just felt that it was appropriate and,
11 you know, I was willing to put my name on it.
12 Q Anything else you told him about that?
13 A Not that I recall.
14 Q And what was his response?
15 A Well, you know, I think he was a little chagrined.
16 I don't think he really understood why I would want to do
17 that or be willing to do that, but he did ultimately agree to
18 let me do it.
19 Q And you think he agreed in that meeting?
20 A I think so. I'm not sure.
21 Q Okay. So what's the next step you took with regard
22 to this letter after the meeting with Mr. Hunt?
23 A I'm assuming I began to draft it. I may have begun
24 to draft it beforehand. I don't know.
25 Q Okay. And just, you know, paint a picture for us,

1 if you will. You start drafting a letter. How do you do
2 that? What information are you looking for? Are you
3 reaching out to people for information? What happens?
4 A Well, as I mentioned, you know, we had pulled
5 together a lot of information already with the investment
6 team, with our research analysts, with product engineering,
7 with our economists. So this was an ongoing conversation. So
8 there was a lot of fresh information there. And what I
9 wanted to do was -- so I drew from all those -- all those
10 sources, and, again, I may have had -- I don't recall this
11 happening, but it could be that maybe Patricia Hudson or one
12 of our writers might have gone through and edited the letter,
13 although I don't remember her specifically doing that in this
14 case.
15 Q Okay. And what other conversations did you have
16 with Mr. Hunt about this letter before it went out, other
17 than that first meeting before you started drafting it?
18 A I think after it went through legal and after
19 whatever the final edits were, I think we may have talked
20 about it before it actually got released to client service.
21 Q And what did you talk about?
22 A I'm just -- I don't remember a conversation about
23 it, but I suspect we went through the final version before it
24 went out.
25 Q So your testimony is you think you had a

1 conversation with Mr. Hunt about something close to a final
2 version of the letter, but you just don't remember the
3 conversation?
4 A That's correct.
5 Q Okay. Now, earlier on when you first looked at
6 this letter, you testified that some groups like the
7 performance group might have provided some information.
8 Looking at this letter, can you just kind of walk me through
9 and point out, well, you know, this sentence or this piece of
10 the letter was provided by X, Y, Z?
11 A Well, when I mentioned the performance group having
12 input, I think I was referring to another letter in which --
13 in which performance was -- specific performance was
14 indicated.
15 Q Okay. Well, let me broaden the question. With
16 regard to this August 14th letter, is there anything in here
17 that you can identify as, you know, a sentence, a phrase,
18 anything that wasn't from you, but it was something that was
19 drafted or created by somebody else within SSgA?
20 A Well, so, for example, I'm sure I didn't do the
21 calculation of how many quarters the strategy had
22 outperformed.
23 Q The 15 out of 21 quarters?
24 A Right.
25 Q Okay.

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. B-02320-A

5 STATE STREET GLOBAL ADVISORS)

6

7 WITNESS: John Patrick Flannery

8 PAGES: 809 through 973

9 PLACE: Securities and Exchange Commission

10 33 Arch Street

11 Boston, Massachusetts

12 DATE: Tuesday, March 2, 2010

13

14 The above-entitled matter came on for hearing, pursuant
15 to notice, at 9:00 a.m.

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24 Diversified Reporting Services, Inc.

25 (202) 467-9200

1 (SEC Exhibit No. 677 was marked for
2 identification.)
3 BY MR. BAKER:
4 Q All right. You've just had placed before you a new
5 exhibit that was just marked as Exhibit 677, and it's Bates
6 numbered SS 7858734 through 7858737, and this is an e-mail
7 from Patricia Hudson on July 12th, 2007 to Staci Reardon,
8 Larry Carlson, Maureen Fitzgerald, copied to you, Adele
9 Kohler, Frank Gianatasio, Michael Thompson, Michael Wands,
10 and the subject is "Client letter on subprime woes and/or FI
11 portfolios." There's an attachment which on the front page
12 of the letter it says it's called "5-subprime CAR alert for
13 June '07 ph v4.doc.zip." And I'll just read a portion of the
14 e-mail and follow up with a question on that.
15 It says, "Staci, Larry, and Maureen: Attached is
16 an updated version of the client letter discussing our active
17 fixed income portfolios in light of the subprime problems.
18 This version has been reviewed by Sean, Adele, Frank
19 Gianatasio, Mike Wands, and Mike Thompson." And it goes on.
20 With regard to that statement she makes here, "This
21 version has been reviewed by Sean, Adele, Frank Gianatasio,"
22 Wands, and Thompson, do you understand that the Sean here is
23 you?
24 A Yes, I would assume that's me.
25 Q Okay. So as of the date of this e-mail, is she

1 believe, again, sometime right in this period I believe I
2 instructed her to make sure that legal had reviewed the
3 letter.
4 BY MR. BAKER:
5 Q What was your understanding as of the time of this
6 particular e-mail whether legal had done any review of this
7 letter already?
8 A I don't know. It's still in draft stage, as far as
9 I can tell. And she does indicate that -- that it might make
10 sense to have legal review it. So I don't know if they had
11 reviewed it up to this point or not.
12 Q Okay. Well, your recollection is -- and you can't
13 put a time frame on it, and I understand -- but your
14 recollection is that you instructed Ms. Hudson that legal
15 should review the letter; is that correct?
16 A Yes.
17 Q Okay. Prior to you giving that instruction to Ms.
18 Hudson, what was your understanding as to whether legal had
19 already reviewed the letter at all, even seen a draft of it?
20 A I don't know. Again, I believe it was still
21 internal at this point. But I don't know the answer to that.
22 Q And when you say "internal at this point," do you
23 mean internal among business people as opposed to not legal
24 people?
25 A No. What I mean is at this point, as far as I can

1 correct that you had reviewed the letter?
2 A I don't recall reviewing the letter. I may have
3 reviewed the letter. I -- I can't recollect for certain at
4 this point.
5 Q And then she says in the e-mail, "Given the
6 potential future scrutiny that could face all official State
7 Street communications regarding our subprime exposure, it
8 might make sense to have the legal department review this
9 before it goes out as well."
10 Had you prior to this e-mail had any discussions
11 with Ms. Hudson about whether legal should review this draft
12 letter?
13 A It was -- I'm not sure when they occurred, but I
14 believe I instructed Patricia Hudson to make sure that all
15 these types of communications be reviewed by legal.
16 Q Okay. When did you have that discussion with her?
17 A I'm not certain. It's likely right around this --
18 this period, but I'm not certain.
19 BY MS. BERNSTEIN:
20 Q Was it in connection with the July 26 letter or a
21 prior letter that you first suggested that legal needed to
22 review correspondence before it went out to clients?
23 A You know, I'm sure client service had their own
24 processes for legal review, and I may have prior to this also
25 requested that legal review these things. But, you know, I

1 tell, we were going back and forth on edits of the
2 prospective letter, and I simply don't know whether legal had
3 been brought into the loop at this point. But to the best of
4 my knowledge, this -- this letter was not sent out until --
5 nothing was sent out until legal had reviewed it.
6 Q Okay. Is it fair to say that the business people,
7 whoever they may be, and as opposed to not legal, did the
8 initial draft of the July 26th letter?
9 A I think that's -- I don't see -- I'm not certain,
10 but I don't see them -- anybody from legal -- on the
11 circulation list at this point. It could be that there were
12 already discussions with legal.
13 Q What's your recollection of who -- of what role
14 legal had, if any, in putting together the first draft of the
15 July 26th letter?
16 A I don't know.
17 Q You just don't know one way or the other?
18 A I don't know one way or another.
19 Q Do you know who drafted the first version of the
20 July 26th letter?
21 A No.
22 Q Do you know who decided that the July 26th letter
23 should be created?
24 A No.
25 Q Were you first involved in the July 26th letter

1 within -- within fixed income, and the existing fixed income
2 strategies that limited the amount of allocation to the
3 Limited Duration Bond Fund. US PALMS is something that
4 started -- if I'm correct, I'm pretty sure -- sort of after
5 that policy. So it could be that that same limitation didn't
6 apply. I'm just not sure.

7 Q Okay. Now, I don't know if you want to look back
8 to it or not. I'm not going to have a real particular
9 question about it, but the Exhibit 16 that we started with
10 here includes as one of the -- I do want to go back to
11 Exhibit 692 and 693. But Exhibit 16 has a copy of the final
12 version of the August 2, 2007 letter. So I just wanted to
13 note that if you need to look at it for any reason.

14 A Okay.

15 Q But also for the record that we know, at least from
16 this document, that on August 2, 2007, that letter goes out
17 to clients, according to Exhibit 16.

18 A I'm sorry, which letter? This?

19 MR. PEARLSTEIN: The August 2nd letter.

20 BY MR. BAKER:

21 Q I just wanted to get the time frame down. So we're
22 looking at an e-mail of yours of August 1, 2007 that has some
23 edits to a letter.

24 A Okay.

25 Q And the final version, which is different, is dated

1 had with respect to the drafting or editing of the August 2,
2 2007 letter?

3 A No. I've reviewed the track edits, and it just
4 doesn't ring a bell to me.

5 Q Okay. And can you think of anything that would
6 help -- help you recall whether you edited the letter either
7 before this date or after this time?

8 A I -- no.

9 Q Okay. If we look at the end of the Exhibit 693 of
10 the track changes edits here, you had treated an underline as
11 what you've added to the letter, and then to the right you'll
12 see deleted for what's been subtracted?

13 A Yes.

14 Q Okay. And why did you make the edits to the
15 "Actions Taken" section that we see here, adding content and
16 subtracting content? If you want to just walk through each
17 sentence, if that helps.

18 A Well, again, I don't have a recollection of doing
19 that. So let me just review again the difference.

20 Q Uh-huh.

21 A (Pause.) I think the difference is that -- is that
22 in my edit, we -- we acknowledge that there is some
23 deterioration in longer-term fundamentals. But essentially
24 -- but we still see price action being dominated by leverage
25 and liquidity. So the difference -- the difference between

1 August 2, 2007, according to Exhibit 16.

2 A Okay.

3 Q So when did you first see a draft of the August 2,
4 '07 letter?

5 A I don't know.

6 Q Was Exhibit 693 the first time that you provided
7 suggested edits to the August 2, 2007 letter?

8 A I don't recall any edits, so I don't recall any
9 before this, no.

10 Q But these are your edits; whether you recall them
11 or not, you acknowledge that they're your edits; is that
12 right?

13 A Well, it looks to me like they are.

14 Q Okay. And you don't recall making any edits prior
15 to 7:53 a.m. on August 1, 2007?

16 A I don't, no.

17 Q Okay. And how about after this e-mail? Did you
18 provide any further edits or comments on the August 2, 2007
19 letter?

20 A I actually don't -- I don't remember -- I don't
21 really recall the August 2 letter at all. So I don't really
22 have a recollection of it.

23 Q Okay. Well, I guess other than the Exhibit 693 and
24 what we see as track changes to a letter, is there anything
25 else that would refresh your recollection as to any role you

1 the two I think would be primarily observing that there is
2 some deterioration in the fundamentals.

3 Q You wanted to make sure that the letter noted that
4 fact, that there was some -- in addition, State Street felt
5 that there was some deterioration in the long-term
6 fundamentals, or at least acknowledging that?

7 A Again, I don't recall making these changes, but as
8 I read these edits, that's what it would say to me.

9 Q Okay. And does that cover all of the edits that
10 you made here in the "Actions Taken" section as to why they
11 would be there?

12 A I guess as I read this today, and I'm not sure I'm
13 tracking exactly where every -- where every one of those
14 edits is ultimately inserted. I don't see anything that
15 really changes the meaning of the sentence, maybe tightens up
16 a little bit.

17 Q Okay. Well, let me read you the sentence as it
18 exists, and I'll note what appears to be deleted according to
19 the track changes. There's a sentence that starts, "Within
20 the Limited Duration Bond Fund we have reduced." Do you see
21 that?

22 A Yes.

23 Q So "Within the Limited Duration Bond Fund, we have
24 reduced exposure to a significant portion of BBB securities,
25 we have sold a large amount of our AAA cash positions and

1 A Yes.

2 Q And then there's a sentence that says, "While we
3 will continue to liquidate assets for our clients when they
4 demand it, we believe that many judicious investors will hold
5 their positions in anticipation of greater liquidity in the
6 months to come."
7 Do you see that?

8 A I do.

9 Q Now, if we look back at Exhibit 654, you'll notice,
10 I think, pretty quickly that it's different in terms of
11 sentence. So you look at the bottom of FLAN 1598, above the
12 paragraph that starts "Each of us involved in managing,"
13 which is very near the bottom --

14 A Yes.

15 Q -- there's a sentence that says, "While we will
16 continue to liquidate assets for our clients when they demand
17 it, our advice is to hold the positions for now."
18 Do you see that?

19 A I do.

20 Q Okay. So having read that and having read a
21 similar sentence, but a different sentence, from Exhibit 80,
22 the final version of the letter, does that refresh your
23 recollection that Exhibit 654 is indeed a draft of the August
24 14, 2007 letter?

25 A Yes, it does.

1 For example, instead of saying, "Our advice is to hold the
2 position -- on positions for now," it says, "We believe that
3 many judicious investors will hold the positions in
4 anticipation of greater liquidity in the months to come."
5 Who decided to revise that sentence?

6 MR. PEARLSTEIN: You can answer.

7 THE WITNESS: I can answer?

8 MR. PEARLSTEIN: Yes.

9 A Mark Duggan, I believe.

10 BY MR. BAKER:

11 Q And did you have some sort of a communication with
12 Mr. Duggan about this specific sentence?

13 A Well, Mark edited the entire letter, as I recall.

14 Q Okay. Tell me about your -- I'll follow up with
15 questions, but just exhaust for me sitting here right now of
16 Mark Duggan's edits to the August 14th letter in terms of
17 discussions you had with him about the edits and what type of
18 edits he made.

19 A I think they just went back and forth in e-mail by
20 -- I remembered this one in particular. I can't say any
21 other ones -- I think there were other ones as well, but I
22 can't tell you what they were.

23 Q You and he went back and forth on e-mail?

24 A Yes.

25 Q Okay. How about any in-person or on-the-telephone

1 Q Okay. Who drafted the sentence that I read from
2 the Exhibit 654, the one that says, "While we will continue
3 to liquidate assets for our clients when they demand it, our
4 advice is to hold the positions for now"? Who did the first
5 draft of that sentence?

6 A I believe I did.

7 Q Okay. And why did you want to include that
8 sentence in this letter?

9 A Because there was -- clients were wondering what to
10 do. We were in unprecedented -- an unprecedented situation
11 in the market, at least for the past 30 or so years. And we
12 were sort of wondering what to do.

13 Q That was something that you knew clients were
14 asking of their client service personnel?

15 A Yes.

16 Q And how did you become aware of that?

17 A You know, a number of client service people
18 communicated in different ways. I believe Larry Carlson was
19 -- the most specifically addressed it, the issue, to me that
20 there was a need for some kind of communication.

21 Q About what clients should do?

22 A Not about what clients would do. About what was
23 going on in the marketplace.

24 Q Okay. Now, we saw, and I read it just a minute
25 ago, but in Exhibit 80 the sentence is obviously different.

1 conversations about the letter? Did you have any of those
2 with Mr. Duggan?

3 A We may have. I don't recall them if we did.

4 Q Okay. So you're saying there may have been other
5 edits, but this edit, the edit that we've read now, from the
6 "Our advice is to hold" to "We believe many judicious,"
7 that's one edit that you remember Mr. Duggan making?

8 A That's right.

9 Q And did he tell you why he thought that edit should
10 be made?

11 A Not that I recall.

12 Q He just revised it, made some sort of revision, and
13 you accepted it without any discussion?

14 A Yeah. I think typically when it comes to these
15 edits, we would simply send things back and forth with track
16 changes instead of doing things verbally to keep better track
17 of what needed to change.

18 BY MS. BERNSTEIN:

19 Q Did you have any questions as to why this edit
20 needed to happen?

21 A Not really. I assumed there was a legal reason
22 that this was a better way to make that point than I had.

23 Q Did you know -- was it ever told you what that
24 legal reason might be?

25 A I don't recall asking him.

1 Q Do you understand what the difference might be
2 between the original language and the language as the letter
3 went out?

4 A May I hear the question again, please?

5 Q What's your understanding of the difference between
6 the language as you originally drafted it and as it
7 ultimately went out over your signature?

8 A I think the difference is that he's saying -- I
9 don't think there's really much difference in it. Instead of
10 just holding one view, sort of holding out the idea that "We
11 believe that many judicious investors will hold their
12 positions," I think, you know, by inference we can say some
13 will not. But it gets to the -- the issue of holding on to
14 the position in anticipation of greater liquidity, which I
15 think is more precise than what I had in my sentence.

16 BY MR. BAKER:

17 Q Was there anything else that you remember about
18 communications you had with Mr. Duggan about this? I'll give
19 you an example. Was Mr. Duggan adamant that the change be
20 made? Did you perceive that anywhere?

21 A I don't know that he was adamant. I trusted Mark
22 Duggan's input. His input was required; it was part of the
23 process. His changes seemed reasonable to me. And so I
24 don't know that he was adamant, but I respect his
25 capabilities and his knowledge, and I believe I simply just

1 accepted the changes that he proffered.

2 Q And you have no recollection of him stating the
3 basis for the reason why he wanted the change?

4 A You know, I -- no. I don't think -- I don't think
5 so, no.

6 Q And the language that we see in the final version
7 of the letter about "judicious investors," was that exactly
8 the way he proposed his change, or was there any further
9 back-and-forth with you, like a compromise language or
10 anything like that?

11 A No. I think it was exactly. I could be -- I don't
12 have, I mean, perfect memory of that, but I believe it was
13 exactly what he suggested we substitute there.

14 Q Okay. And he didn't suggest that the sentence
15 totally come out? He just suggested an edit; is that
16 correct?

17 A I -- I think he just suggested that, an edit. I
18 don't recall any suggestion that the sentence come out.

19 Q Okay.

20 BY MS. BARAN:

21 Q Mr. Flannery, did he inform you of this change just
22 by sending the revised version back to you? Was there any
23 other back-and-forth? Did he explain it in his e-mail? Did
24 he pick up the phone and call you and tell you why he
25 suggested the edit?

1 A I don't think he did, but, you know -- you know,
2 I'm an investment guy, not an attorney. I worked with Mark
3 for many, many years. If he suggests an edit, I have reason
4 to believe that there was a good reason for that.

5 Q Sure. What I'm trying to figure out is how he
6 suggested it to you. Did he simply send back a revised
7 version or did he actually say to you, "I suggest this
8 change, and here's why," either by typing or by saying that
9 to you in person?

10 A I think it was in that track change mode. Again, I
11 don't have a photographic memory of it, but --

12 Q Are you aware of any other people who had input in
13 the letter before it came back to you with that change made?

14 A I don't -- I think -- I think -- I think there may
15 have been a series of suggested edits on which Mark, as I
16 recall, was included in every one of them. There may well
17 have been more than one, but I'm not certain how many.

18 MR. BAKER:

19 Q Do you have any recollection of when Mr. Duggan
20 made the edit?

21 A I'm trying to -- I believe that -- I don't remember
22 the timing, but I think -- I think there were a series of
23 edits that took place over a couple of days and maybe even a
24 weekend. But I may have my days mixed up.

25 Q Okay.

1 (SEC Exhibit No. 694 was marked for
2 identification.)

3 BY MR. BAKER:

4 Q You've just had placed before you Exhibit 694, and
5 this is an e-mail from you to Mark Duggan on August 8th,
6 2007, copy to Staci Reardon, Larry Carlson and Adele Kohler,
7 subject: "Draft CIO letter." And the attached document is
8 called SPF Bond letter v1.doc.zip, SPF, your initials;
9 correct?

10 A Yes.

11 Q Okay. Bates numbers of this Exhibit are SS-SEC
12 118355 through 118358.

13 And if you look at the last page of the exhibit,
14 118358, you'll see at the top that it's the "judicious
15 investor" language. Do you see that?

16 A I do.

17 Q So, I guess, does this at least help you recall
18 that whatever communication you had with Mr. Duggan where he
19 suggested revising that sentence must have occurred before
20 the date and time of this e-mail, Exhibit 694?

21 A That would make sense to me.

22 Q Okay.

23 MR. PEARLSTEIN: Well, he's asking -- I think the
24 question was refreshing recollection.

25 MR. BAKER: Yes.

1 leverage worked or how derivatives were accounted for in
2 those descriptions?

3 A I don't know, because as I mentioned, I really
4 didn't see fact sheets, so I don't know the answer to that.

5 Q Well, the conversation you had with Mr. Wands, did
6 he bring anything to your attention like, "This is how it's
7 being done," and this is good or bad? Did he explain that?

8 A I really related to you what I recall as part of
9 the conversation just that, you know, when he explained that
10 it was, you know, a normalized approach, I was just a little
11 bit surprised at that, and -- and, you know, he explained
12 that that's the way the client service people had asked and
13 that -- for, and that clients found our other way of
14 reporting it confusing.

15 BY MS. BERNSTEIN:

16 Q How did you learn that they were using this
17 normalized approach?

18 A The only thing I recall ever on that conversation
19 was, you know, kind of a quick conversation with Mike when
20 somehow this issue arose.

21 Q So is it your testimony that you learned this from
22 Mr. Wands in 2007?

23 A That's the way I recall it. I don't have any other
24 recollection of it.

25 BY MS. BARAN:

1 BY MR. BAKER:

2 Q Looking back at 696, Mr. Armstrong weighs in with
3 an e-mail with several points. His last bullet is "Include
4 that cash balance whether the market value is in excess of
5 100 percent or below 100 percent" --

6 MR. PEARLSTEIN: Market exposure.

7 Q "Include that cash balance whether the market
8 exposure is in excess of 100 percent or below 100 percent.
9 For to disguise the cash balance when the market exposure
10 exceeds 100 percent is intuitively inexplicable and
11 indefensible."

12 Did you ever have any communications with Mr.
13 Armstrong about this issue?

14 A I don't remember a discussion with Patrick
15 Armstrong about this issue.

16 Q Any recollection at all of Mr. Armstrong
17 expressing, I guess, a strong view about how State Street
18 Global Advisors should disclose sector exposures or not go
19 about disclosing sector exposures in client communications?

20 A He was very involved, certainly in 2007, as, you
21 know, we generated different measures of risk and leverage
22 and things like that. Patrick, and his team, was very
23 involved in that at that point.

24 Q In 2007?

25 A Yeah. Patrick reviewed -- Patrick's team reviewed

1 Q Why did he bring it up to you?

2 A I -- I don't remember the circumstances. You know,
3 I can sort of -- I don't know how the topic came up, but --
4 but I just remember saying, "Yeah, well, the exposure summed
5 100 to 100 percent." I said, "Well, why is that?"

6 And he said, "Actually, you know, it came from
7 Penny." You know, "Clients were confused about negative
8 cash," and, you know, something along those lines.

9 And it was a quick conversation, you know, in a
10 difficult period where there were lots of things going on. I
11 don't really remember more than that about it. I think Mike
12 was working on it, but --

13 Q Well, what was your instruction to Mike Wands as to
14 what to do? Or recommendation.

15 A I don't remember specifically what I said to him
16 about that that day.

17 Q Did you provide any instruction or recommendation
18 to anyone about anything you felt needed to be done about the
19 way this was decided?

20 A Well, if I -- I believe it was -- the time period
21 in which there was a lot of focus on the Limited Duration
22 Bond Fund and everything about how we represented the
23 characteristics of that. So I think that work was already
24 underway, but I don't remember anything specific at that
25 time, no.

1 risk on the portfolios on a monthly and a quarterly basis
2 with the investment teams throughout the whole period. To
3 the best of my knowledge, I mean he had that. I don't know
4 if he had information the way he constructed it in this
5 particular case. And, yeah, I see that they've included IT
6 people on this as well. So they may have been looking at how
7 to get that into the fact sheets, but I don't have any
8 recollection of it.

9 Q Okay. And no recollection of Armstrong expressing
10 strong views on how sector exposures were described to
11 clients prior to 2007?

12 A I don't recall that issue coming up with Patrick.

13 Q Before we take a short break, but with regard to
14 Exhibit 80, your August 14, 2007 letter, and the sentence
15 that Mr. Duggan edited where he suggested, according to your
16 earlier testimony, an edit that should say, "We believe many
17 judicious investors will hold their position in anticipation
18 of greater liquidity in the months to come," do you have any
19 recollection of anything that Mr. Duggan said to you in
20 writing or orally or in any other way that made you believe
21 that the sentence in the final letter was appropriate,
22 legally appropriate, in light of what GAA and OFA had decided
23 to do with their investors' investments in the Limited
24 Duration Bond Fund and funds invested in that fund?

25 A Mark Duggan was a party to the discussions and, to

1 the best of my knowledge, was fully aware of what was going
 2 on with the different groups. So, no, I don't recall him --
 3 any -- any question with respect to whether that was -- that
 4 needed to be changed.
 5 Q In light of what GAA and OFA had --
 6 A Yes.
 7 Q -- already decided?
 8 A Right.
 9 MR. BAKER: Okay. Let's just take a short break so
 10 we can talk. Maybe like five minutes or so. We're off the
 11 record.
 12 (A brief recess was taken.)
 13 MR. BAKER: We're back on the record at about 3:20
 14 p.m. on March 2, 2010.
 15 And, Mark, other than the issue of the fact that
 16 we're concluding and adjourning and not closing the record,
 17 no conversations of any substance between staff and the
 18 witness or staff and counsel during the break; is that
 19 correct?
 20 MR. PEARLSTEIN: That is correct.
 21 BY MR. BAKER:
 22 Q All right. Mr. Flannery, the staff has no further
 23 questions for you at this time. We may, however, call you
 24 again to testify. So, therefore, we're just adjourning the
 25 testimony at this time as opposed to formally closing it.

1 REPORTER'S CERTIFICATE
 2
 3
 4 I, James A. Scally, reporter, hereby certify that the
 5 foregoing transcript of 163 pages is a complete, true and
 6 accurate transcript of the testimony indicated, held on March
 7 2, 2010, at 9:00 a.m. in the matter of: State Street Global
 8 Advisors.
 9
 10
 11 I further certify that this proceeding was recorded by me,
 12 and that the foregoing transcript has been prepared under my
 13 direction.
 14
 15
 16
 17 Date: _____
 18 Official Reporter: _____
 19 Diversified Reporting Services, Inc.
 20
 21
 22
 23
 24
 25

1 Mr. Flannery, do you wish to clarify anything or
 2 add anything to the statements you have made today?
 3 A No.
 4 MR. BAKER: And, counsel, do you wish to add any
 5 clarifying questions?
 6 MR. PEARLSTEIN: Not at this time.
 7 MR. BAKER: All right. Then we are off the record
 8 at about 3:23.
 9 MR. PEARLSTEIN: Terrific. Thank you.
 10 (Whereupon, at 3:23 p.m., the examination was
 11 concluded.)
 12 *****
 13
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1 PROOFREADER'S CERTIFICATE
 2
 3 In the Matter of: STATE STREET GLOBAL ADVISORS
 4 Witness: John Patrick Flannery
 5 File Number: B-02320-A
 6 Date: Tuesday, March 2, 2010
 7 Location: Boston, Massachusetts
 8
 9
 10 This is to certify that I, Robert T. Moser (the
 11 undersigned), do hereby swear and affirm that the attached
 12 proceedings before the U.S. Securities and Exchange
 13 Commission were held according to the record and that this is
 14 the original, complete, true and accurate transcript that has
 15 been compared to the reporting or recording accomplished at
 16 the hearing.
 17
 18
 19
 20 _____
 21 (Proofreader's Name) (Date)
 22
 23
 24
 25

EXHIBIT 3

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. B-02320

5 STATE STREET GLOBAL)

6 ADVISORS)

7

8 WITNESS: Mark J. Duggan

9 PAGES: 1 through 127

10 PLACE: Securities and Exchange Commission

11 33 Arch Street

12 Boston, Massachusetts

13 DATE: Wednesday, October 7, 2009

14

15 The above-entitled matter came on for hearing, pursuant
16 to notice, at 1:00 p.m.

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25 (202) 467-9200

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1 THE WITNESS: Yes, I do.
2 MR. BAKER: How well do you remember it?
3 THE WITNESS: I remember certain things about it
4 and certain thing that were discussed.
5 MS. BERNSTEIN: Without going into the substance of
6 the communication, did you provide legal advice to Sean
7 Flannery or Paul Greff at that meeting?
8 THE WITNESS: I did.
9 MS. BERNSTEIN: Can I presume that that legal
10 advice related to the Limited Duration Bond Fund?
11 THE WITNESS: That is correct.
12 BY MS. BARAN:
13 Q Did you provide any advice other than legal advice?
14 A I don't recall providing any advice other than
15 legal advice.
16 Q Were they speaking to you for the purpose of
17 retaining legal advice?
18 A Yes, they were.
19 Q Did they ask for your input for any reason other
20 than to provide legal advice?
21 A No.
22 Q The meeting you recall being approximately July 20,
23 after that meeting, what was your understanding of the
24 Limited Duration Bond Fund's total exposure to subprime
25 backed mortgage securities?

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1 MR. GELHAAR: I would caution you that -- I believe
2 the bank would permit you to answer that question on the
3 basis of any understanding that you obtained other than from
4 bank clients.
5 THE WITNESS: Then I can't answer that question.
6 MS. BERNSTEIN: Without getting into the substance
7 of the communication, prior to you providing legal advice
8 regarding the Limited Duration Bond Fund to Sean Flannery and
9 Paul Greff, did they provide you with factual information
10 regarding the Limited Duration Bond Fund so that you could
11 provide that legal advice?
12 THE WITNESS: Yes.
13 MS. BERNSTEIN: When you provided that legal
14 advice, did you believe that the information that you had was
15 adequate to provide that legal advice?
16 THE WITNESS: It's hard for me to answer that
17 question. I provided them legal advice based on all the
18 information they had provided me. And I wasn't aware of
19 other information they weren't providing me but I wouldn't
20 have been.
21 MS. BERNSTEIN: Did you later become aware that
22 there was information necessary to provide your legal advice
23 that you were not provided at that meeting?
24 THE WITNESS: Not that I recall.
25 MS. BERNSTEIN: In terms of the factual basis for

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1 providing legal advice regarding the Limited Duration Bond
2 Fund, on whom did you rely?
3 THE WITNESS: I relied at that point on Sean
4 Flannery and Paul Greff.
5 MS. BERNSTEIN: At that point in time, we are
6 talking about that meeting on or about July 20, 2007, did you
7 do any due diligence other than relying on Sean Flannery in
8 order to provide legal advice?
9 THE WITNESS: No. I relied only on the information
10 they provided me.
11 MR. BAKER: You mentioned the fact you worked on
12 frequently asked questions and letters to investors in 2007?
13 THE WITNESS: Correct.
14 MR. BAKER: Did any of those letters concern
15 subprime and Limited Duration Bond Fund?
16 THE WITNESS: Yes.
17 MR. BAKER: What was the date of the first letter
18 that went to the investors that concerned the Limited
19 Duration Bond Fund?
20 THE WITNESS: I believe July 26.
21 MR. BAKER: Prior to July 26 when that first letter
22 concerning subprime and Limited Duration Bond Fund was sent
23 to investors, who did you rely on for facts concerning the
24 Limited Duration Bond Fund and subprime?
25 THE WITNESS: The investment groups, the investment

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1 people, experts within our group or within our company, being
2 mostly Sean Flannery, Paul Greff, Mike O'Hara, Bob Pickett,
3 Mike Wands.
4 BY MS. BARAN:
5 Q I hand you three different exhibits now and have
6 you take a look at each of these. I hand you first
7 Commission Exhibit 16, Commission Exhibit 80 and Commission
8 Exhibit 17.
9 With regard to Commission Exhibit 16, Commission
10 Exhibit 16 has Bates numbers SS-3700530 through 3700536. I'm
11 going to refer you specifically to just the first three pages
12 of that. The questions will be directed to the first three
13 pages.
14 On Commission Exhibit 80, that one has Bates
15 numbers SS-SEC 87629 through 87636. I'm going to refer you
16 to the pages that are at 87631 through 33. Finally,
17 Commission Exhibit 17 has SSgA-SEC 152291 and 15292. Each of
18 these Commission exhibits contains communication or appear to
19 contain communication with particular dates.
20 I'm going to have a series of questions concerning
21 each of those exhibits, but I want you to have them all to
22 take a look at I refer you first to Commission Exhibit 16.
23 A Okay.
24 Q If you could take a look at Commission Exhibit 16.
25 And when we look at the first page, there's an e-mail stamp

1 at the top indicating from Larry Carlson with a date of
 2 October 12, 2007. But then there is about midway through the
 3 first page of Commission Exhibit 16 a notation that says,
 4 "No. 1, July 27 letter to clients." Do you see that?
 5 A I do.
 6 Q Then there's a text following that goes about the
 7 first third of the next page of this exhibit?
 8 A Yes.
 9 Q Do you recognize that as a copy of a letter that
 10 was sent to clients of SSgA?
 11 A I do.
 12 Q We've been talking about client communications. Is
 13 this a letter that was sent to clients on or about July 26 or
 14 July 27?
 15 A Yes.
 16 Q And have you seen what we see here contained within
 17 Commissioner Exhibit 6 prior to today?
 18 A I have.
 19 Q Did you review drafts of the letter that we see
 20 with the date of July 27 here on Commission Exhibit 16?
 21 A I did.
 22 Q When was the first time you saw a draft?
 23 A I would estimate a week before that.
 24 MS. BERNSTEIN: Would it be fair to say on or about
 25 July 20, 2007?

1 the facts that are described in this letter?
 2 THE WITNESS: I relied on the experts within our
 3 company to verify the facts, those being the drafters and
 4 portfolio managers and investment people.
 5 MS. BERNSTEIN: Can we take a break for a second?
 6 MS. BARAN: Off the record.
 7 (Discussion off the record)
 8 BY MS. BARAN:
 9 Q We are back on the record after a brief break at
 10 3:05. As we do, I want to confirm there were no
 11 conversations of any substance between the witness and the
 12 staff while we were on the break?
 13 A That's correct.
 14 Q If I can return you back to Commission Exhibit 16.
 15 Who did you regard as the person who was primarily
 16 responsible for drafting this letter?
 17 A I don't know who was primarily responsible for
 18 drafting. Or I should say I don't recall.
 19 MR. BAKER: Who on the business side was
 20 responsible for the content of the letter?
 21 THE WITNESS: I don't know. It would have been
 22 either the relationship management people or one of the fixed
 23 income investment managers. I don't recall.
 24 BY MS. BARAN:
 25 Q What was Sean Flannery's role with regard to this

1 THE WITNESS: Yes.
 2 MS. BERNSTEIN: We've been using the phrase review.
 3 Let's break that apart. First of all, did you read drafts of
 4 this letter prior to it being finalized?
 5 THE WITNESS: Yes, I did.
 6 MS. BERNSTEIN: And when we say review, what do you
 7 understand by the word review?
 8 THE WITNESS: Read through the letter and see if
 9 there's anything that kind of on its face jumps out at me as
 10 being illegal or contrary to regulations that were applicable
 11 to SSgA.
 12 MS. BERNSTEIN: Did you actually edit this letter
 13 in any way?
 14 THE WITNESS: I don't recall having significant --
 15 I don't recall having edits to this letter.
 16 MR. BAKER: Did you draft any part of this letter?
 17 THE WITNESS: No.
 18 MS. BERNSTEIN: When you reviewed this document,
 19 did anything illegal or contrary to regulations applicable to
 20 SSgA jump out at you?
 21 THE WITNESS: Not that I recall, no.
 22 MR. BAKER: Were there any facts described in this
 23 letter that you thought were inaccurate?
 24 THE WITNESS: No.
 MR. BAKER: What did you do to test the accuracy of

1 letter?
 2 A If he was not the drafter, he was a significant
 3 reviewer.
 4 MS. BERNSTEIN: How do you understand that to be
 5 the case?
 6 THE WITNESS: Because he was so involved with this
 7 issue, and I remember him being very involved in each letter.
 8 BY MS. BARAN:
 9 Q Tell us what you mean by "very involved in this
 10 issue." Let's concentrate on this letter.
 11 A I recall that Sean Flannery was, I don't want to
 12 step on any confidences, I recall that Sean was doing a lot
 13 of work on the issues covered by this letter.
 14 Q Was he involved in your view in preparing
 15 information that was being prepared to disseminate to
 16 clients?
 17 A I believe that is so, yes.
 18 Q And was he the primary person?
 19 A With respect to this letter?
 20 Q Yes.
 21 A That I don't know.
 22 Q I want to refer you to Bates 531. The very first
 23 paragraph at the top of this page contains a sentence that
 24 starts, "We have been seeking to reduce risk." Do you see
 25 that?

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. B-02320

5 STATE STREET GLOBAL ADVISORS)

6

7 WITNESS: Mark J. Duggan

8 PAGES: 128 through 359

9 PLACE: Securities and Exchange Commission

10 33 Arch Street

11 Boston, Massachusetts

12 DATE: Friday, October 23, 2009

13

14 The above-entitled matter came on for hearing, pursuant
15 to notice, at 8:38 a.m.

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1 Q Okay. And was one of the securities laws at the
2 time you believed applied was a law that would prohibit
3 omitting material information from a statement that the
4 omission of which makes the statement misleading?
5 A So was I at the time thinking about omissions or --
6 BY MS. BERNSTEIN:
7 Q Thinking about the language of 10b-5(b) which says
8 material misstatement or you omitted information which makes
9 the statement misleading. Not omissions generally --
10 A Right.
11 Q -- but omissions within the context of 10b-5(b) the
12 way it is written.
13 A I don't recall if I was or not.
14 BY MR. BAKER:
15 Q Okay. Well, was that one of the federal securities
16 laws that you believed applied to what you were supposed to
17 be looking at in terms of making sure that the letter
18 complied with federal securities laws?
19 A I don't know if it does.
20 Q Okay. Well, regardless of that, then, sitting here
21 now, do you believe that given the fact that the purpose of
22 selling assets from the Limited Duration Bond Fund was to
23 raise liquidity to meet client redemptions, do you think that
24 it was a material omission from the statement to not disclose
25 the fact that the reason why there were asset sales as

1 described in this sentence was to meet client redemptions?
2 MR. GELHAAR: Same objection.
3 A I can't say. I don't know the answer to that.
4 Q Is that something that you thought about at the
5 time?
6 A I don't recall thinking about that.
7 Q Do you know if anyone else thought about that issue
8 at the time?
9 A Not that I recall.
10 Q Did you have a discussion with anyone in connection
11 with the July 26th letter about whether the fact that asset
12 sales were occurring was to meet client redemptions, should
13 or should not be included in the letter?
14 A No, I don't recall that.
15 BY MS. BERNSTEIN:
16 Q Were you generally thinking about Rule 10b-5 when
17 you were reviewing the July 26/July 27th letter?
18 A I was generally thinking about material
19 misstatements.
20 Q Did you communicate that you were reviewing that
21 letter for -- for that purpose to Sean Flannery?
22 MR. GELHAAR: I'd like to reserve on that one. I
23 think that's similar to the question that we've already
24 reserved on.
25 MS. BARAN: So if you could note that, Jim.

1 (The reporter read back the record.)
2 MS. BERNSTEIN: And just to make it clear for the
3 purposes of the record, "that letter" is the July 26th/July
4 27th letter, and for the purposes of compliance with Rule
5 10b-5, or material misstatements.
6 BY MS. BARAN:
7 Q Just to confirm, you were out of the office, then,
8 between --
9 MR. GELHAAR: Can we take just a moment off the
10 record?
11 MS. BARAN: Of course we can. It is 11:40, and
12 we'll go off the record.
13 (A brief recess was taken.)
14 MS. BARAN: We're back on the record after an
15 extremely brief break during which there were no
16 conversations of substance between the witness and the staff;
17 correct?
18 THE WITNESS: Correct.
19 BY MS. BARAN:
20 Q Okay. Correct to say you were out of the office
21 from late Friday, July 27th out through the next week,
22 returning Monday, August 6th?
23 A Correct.
24 Q Okay. Where did you go?
25 A To Maine.

1 Q Okay. Did you have phone contact with the office
2 while you were gone?
3 A Yes.
4 Q Who did you speak with?
5 A I recall speaking with Mitch Shames.
6 Q On just one occasion?
7 A Several occasions.
8 Q Did you have BlackBerry access as well? Did you
9 use a BlackBerry?
10 A Yes.
11 Q Okay. And did you have BlackBerry access during
12 the time you were out?
13 A Yes.
14 Q Did you communicate with Mr. Shames -- well, did
15 you communicate with anyone other than Mr. Shames?
16 A Yes.
17 Q Who else?
18 A I participated in a valuation committee meeting
19 that included Mr. Shames and others.
20 Q Okay. Anything other than those communications
21 with Mr. Shames and then the valuation committee meeting?
22 A I don't recall any others.
23 Q Did you have any communications with Mr. Shames
24 during the week that you were out of the office concerning a
25 letter to be sent to clients on or around August 2nd?

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1 A Not that I recall.
2 Q And did you see any edits of a letter that was
3 going to be sent to clients on or around August 2nd?
4 A I don't believe so.
5 Q Or any drafts, I should say. Did you see any
6 drafts of the letter?
7 A I don't believe so.
8 BY MR. BAKER:
9 Q Did you have computer access in Maine? Did you use
10 a computer?
11 A I recall using a computer once.
12 Q Did it have Internet access? Let me ask it
13 differently.
14 What did you use the computer for on the one
15 occasion when you used it when you were in Maine on vacation
16 in early August 2007?
17 A I believe -- I believe I was reviewing FAQ's.
18 BY MS. BERNSTEIN:
19 Q And were those communicated to you by e-mail?
20 A Yes.
21 BY MR. BAKER:
22 Q So you received them via e-mail when you were in
23 Maine on vacation?
24 A I believe so.
25 BY MS. BARAN:

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1 Q And who did you receive them from?
2 A I don't recall.
3 Q And we'll get into this more later, but did you
4 communicate back to anybody concerning your review of FAQ's
5 while you were out of the office that week?
6 A I don't recall.
7 Q And so why were you -- why did you receive the
8 FAQ's?
9 A To review them from a legal point of view.
10 BY MR. BAKER:
11 Q When you were -- going back to that time in July or
12 late August of '07 when you were on vacation in Maine, were
13 you able to look at documents on your BlackBerry at the time,
14 Word documents, draft documents?
15 A I don't know if I had that ability then.
16 Q Did you? Do you have any recollection of doing
17 that?
18 A I don't recall. I don't recall.
19 MR. BAKER: Okay.
20 BY MS. BARAN:
21 Q Let's pull up your calendar, Commission Exhibit
22 648. I'm going to have you turn to the page that has a Bates
23 number of 430422, and there's dates that appear on that page,
24 August 3rd, 6th, 7th, and 8th. Got it?
25 A Yes.

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1 Q Okay. I'm going to refer you to August 8th, 2007,
2 on Wednesday.
3 A Okay.
4 Q At 8:30 a.m. there's a notation "IC meeting, SFC
5 33, San Francisco."
6 Do you see that?
7 A I do.
8 Q And what does that entry mean?
9 A Investment committee meeting --
10 Q Okay.
11 A -- in the San Francisco Room on the 33rd floor.
12 Q And you attended that meeting; correct?
13 A I don't recall.
14 MS. BARAN: If we can mark this.
15 (SEC Exhibit No. 652 was marked for
16 identification.)
17 BY MS. BARAN:
18 Q I'm going to hand you what we just marked as
19 Commission Exhibit 652. And Commission Exhibit 652 has a
20 caption at the top "Investment Committee Minutes" with a date
21 of August 8th, 2007. Right under that date there are three
22 categories of people's names, and one of them is "Others in
23 Attendance," and it reads "Mark Duggan, Paul Greff, Andrew
24 Letts."
25 Do you see that?

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1 A I do.
2 Q Does that refresh your recall as to whether you
3 attended the investment committee meeting on August 8, 2007?
4 A No.
5 Q No recall of any discussion of that meeting?
6 A No.
7 Q Because you don't even recall attending?
8 A Correct.
9 Q Let's look back at your calendar, please,
10 Commission Exhibit 648. We're on the same date there, August
11 8th, 2007. There's a meeting 11:00 a.m. to 12:00 p.m., says
12 "Client Communications."
13 Do you see that?
14 A I do.
15 Q And did you attend that meeting?
16 A I don't recall.
17 Q At 3:00 p.m. to 3:30, there's an entry "Mark
18 Duggan/Bev DeWitt, Mark's office."
19 Do you see that?
20 A I do.
21 Q And did that meeting take place?
22 A I don't recall.
23 Q Can you tell us who Bev DeWitt is, please?
24 A She was the compliance officer who worked mostly on
25 the registered funds.

1 A I don't recall.
 2 Q All right. Let's go ahead and look back at
 3 Commission Exhibit 655. There you go, the one with
 4 "Confidential Draft Only" stamped across the top. I'd like
 5 you to look at the second page of this exhibit, it has
 6 numbers ending in 308.
 7 A Uh-huh.
 8 Q At the very bottom, there's a sentence that starts
 9 "While recent events may have re-priced." If you could read
 10 through that sentence and on to the next page, just complete
 11 that paragraph, let me know when you've read it.
 12 A Okay.
 13 Q So you've read the part of this letter that ends
 14 "while we will continue to liquidate assets for our clients
 15 when they demand it, our advice is to hold the positions in
 16 anticipation of greater liquidity in the months to come";
 17 correct?
 18 A Correct.
 19 Q Okay. When you reviewed this letter, were you
 20 reviewing this letter for purposes of reviewing ERISA issues?
 21 A Yes, to the extent any arose, yes.
 22 Q And did this particular sentence pose any ERISA
 23 issues?
 24 A I'm not aware of any.
 25 Q Okay. Did you have any communications with anyone

1 within SSgA regarding the general subject matter of whether
 2 this letter complied with ERISA rules?
 3 MR. GELHAAR: I'm sorry, could you just repeat the
 4 question?
 5 MS. BARAN: Sure.
 6 Q Did you have any communications regarding the
 7 general subject matter of whether this letter in this format
 8 as we see marked as Commission Exhibit 655 complied with
 9 ERISA rules?
 10 A I don't recall doing so.
 11 BY MR. BAKER:
 12 Q Are there rules that you are aware of -- I guess
 13 were you aware of any rules at the time, ERISA-related rules
 14 or statutes, that concerned at what point you sort of cross
 15 the line in terms of becoming an ERISA fiduciary by giving a
 16 client advice? Is that a concept within ERISA that you're
 17 familiar with at all?
 18 A Yes, I'm familiar with the concept of when you
 19 become an investment manager, a fiduciary, yes.
 20 Q Okay. So the statement "Our advice," I don't know
 21 if you see it here, but "Our advice is to hold the positions
 22 in anticipation of greater liquidity in the months to come."
 23 A Yes.
 24 Q Is that the sort of statement that would be -- you
 25 know, where does that fall on the ERISA line? Do you sort of

1 step in and become an ERISA fiduciary when you say things
 2 like that or not?
 3 MR. GELHAAR: Again, the question is did he think
 4 about it at the time when he was confronted with this letter
 5 or in his capacity sitting here today?
 6 MS. BERNSTEIN: Let's ask it presently.
 7 MR. GELHAAR: The same objection I had before in
 8 terms of asking him expert questions.
 9 Go ahead.
 10 A I'm not an ERISA expert, and I would probably call
 11 someone who was more familiar to see what the line is.
 12 BY MR. BAKER:
 13 Q Okay. Is that a question like reading a statement
 14 like this, is that the type of thing that you would start to
 15 wonder whether you crossed that line or is it just nowhere
 16 near that line?
 17 MR. GELHAAR: The same objection.
 18 A I can't even say if it's near or not. I mean there
 19 are other aspects to it. I know I think it has to be for a
 20 fee, for example, and I know there's other aspects to it. So
 21 I'd have to look at those, look at the statement, talk to
 22 ERISA counsel.
 23 BY MR. BAKER:
 24 Q So who was the ERISA expert, if you will, on
 25 questions like when the line is crossed where you're offering

1 advice to the point where you become an investment fiduciary
 2 under ERISA?
 3 A Who was it at the time?
 4 Q Yes.
 5 A We relied largely on -- or entirely on Josh
 6 Sternoff at Paul Hastings.
 7 BY MS. BERNSTEIN:
 8 Q Was this letter at any point in time sent to Paul
 9 Hastings for review?
 10 A I don't know.
 11 BY MR. BAKER:
 12 Q Was there anyone you considered back in, you know,
 13 mid-2007, summertime 2007, was there anyone in the legal
 14 department who you considered to be more of an expert on
 15 these types of ERISA issues than you?
 16 A Well, Mitch knew more about ERISA than I did. But
 17 everyone kind of had a familiarity with it, but that was as
 18 far as we went.
 19 BY MS. BARAN:
 20 Q Mr. Shames reviewed this letter before it went out?
 21 A Yes.
 22 Q To the extent you can, can you just name everyone
 23 who you believe reviewed this letter before it went out?
 24 A Myself, Mitch Shames, Liz Fries, Sean Flannery,
 25 Marc Brown, Staci Reardon, Larry Carlson, Hannah Grove, Paul

1 Greff, Jim Hopkins. I don't remember -- I can't recall any
2 others.

3 Q Outside counsel other than Liz Fries?

4 A Liz Fries. I don't know if Todd Cronan did as
5 well. I just don't recall.

6 Q Did Glenn Ciotti review the letter?

7 A I believe so.

8 Q Was there anyone else on SSGA's internal legal
9 staff who reviewed the letter in addition to yourself, Mitch
10 Shames, and Glenn Ciotti?

11 A Not that I recall.

12 MS. BARAN: Okay.

13 BY MR. BAKER:

14 Q Was Liz Fries, did you think of her as an ERISA
15 lawyer?

16 A She certainly had more familiarity with ERISA than
17 I did. But she was more of a securities expert.

18 Q Did she offer any ERISA legal advice on this
19 letter? I'm not asking for the advice, but did she, yes or
20 no?

21 MS. BERNSTEIN: Regarding the general subject
22 matter.

23 A I don't recall.

24 BY MR. BAKER:

25 Q How about Glenn Ciotti, did he offer any ERISA-

1 a date of 8/7, 2:00 p.m.

2 Do you see that?

3 A I do.

4 Q Do you know whose handwriting that is?

5 A I believe that was Theresa Holland, who was Mitch's
6 assistant at the time.

7 Q Okay. And seeing this here, does it refresh any

8 recollection as to whether you made a phone call to Mr.

9 Shames on or around August 7 at 2:00 p.m. concerning Mr.

10 Flannery's letter?

11 A Yes.

12 Q Okay. And do you recall making this call?

13 A I do.

14 Q Okay. Your message is "Got Liz's comments and they
15 were minor, passed them on to Sean already." Or I should say

16 Theresa Holland's writing there indicates that you said

17 something to the effect of "Got Liz's comments and they were

18 minor, passed them on to Sean already. Will talk to you

19 about them later."

20 Does that about sum up your message?

21 A Yes.

22 Q Okay. And did you have a conversation with Mr.

23 Shames in which you discussed Ms. Fries's comments?

24 A Yes.

25 Q Okay. And do you know when that was?

1 related legal advice on this letter?

2 A I don't recall.

3 BY MS. BERNSTEIN:

4 Q Did she, Hannah Fries, provide any securities law
5 advice regarding this letter?

6 A Did Liz Fries?

7 Q Yes.

8 A Yes, she did.

9 Q Did you provide securities law advice regarding
10 this letter?

11 A Yes.

12 BY MS. BARAN:

13 Q Let me hand you what we marked as Commission
14 Exhibit 642. There you go.

15 Commission Exhibit 642 is a one-page document with
16 a number of SSP-SEC 4497, and just take a look at this, and
17 my questions will be with regard to the top little sector of
18 this document.

19 A Okay. Okay.

20 Q I'm going to -- have you seen this exhibit before,
21 outside of consultation with counsel?

22 A No.

23 Q Okay. The top part of this exhibit, there's a

24 series of little rectangles here that say "Phone call." This
25 particular one at the top has handwriting "Mark Duggan" with

1 A That afternoon.

2 Q Did anyone attend this conversation other than you
3 and Mr. Shames?

4 A Not that I recall, no.

5 Q Did you talk about Ms. Fries's comments in any
6 meeting specifically with Mr. Flannery, for example?

7 A I don't recall that.

8 Q Okay. And did your discussion with Mr. Shames

9 involve the general subject matter of whether the letter that

10 Ms. Fries had reviewed complied with securities laws?

11 A Not that specific. It was -- I was relaying Liz

12 Fries's comments to him.

13 MS. BARAN: Okay. Mark this one, please.

14 (SEC Exhibit No. 656 was marked for
15 identification.)

16 BY MS. BARAN:

17 Q I'm going to hand you what we marked as Commission

18 Exhibit 656. And Exhibit 656 has Bates numbers at the lower

19 right ranging from SS-SEC 118355 through 118358, and there is

20 an e-mail stamp at the upper left of the first page from Sean

21 Flannery, sent Wednesday, August 8, 2007, 11:59 a.m., but I

22 would regard that as 7:59 a.m., to Mark Duggan, and copied to

23 Reardon, Carlson, and Adele Kohler. Please take a look at

24 this and let me know when you're ready.

25 A Okay.

1 Q Okay. And let me note here, when we look at the
2 e-mail from Marc Brown that begins at page 118391 and
3 continues on to the next page, the attachment is indicated as
4 SPF Bond letter v3. Do you see that notation?
5 A Yes.
6 Q By the time we get up to the first page of
7 Commission Exhibit 659, there's an e-mail in the middle of
8 that first page reading "Larry Carlson," to yourself and
9 Flannery, copy to Reardon and Fitzgerald, sent Sunday, August
10 12th, at, what, 17:46, 5:46. Again, "Re: Here is the
11 letter," but the version that we see attached on there is SPF
12 Bond letter v4 lost client, and it seems to be indicated like
13 three times there.

14 Is your recall that the changes that took place
15 were only with regard to creating a version of the letter to
16 be sent to existing clients versus clients who had left?

17 A That is all I can recall.

18 Q Okay. Without revealing any privileged attorney-
19 client communications or legal advice, can you tell us what
20 role Marc Brown played in this letter, if any? In the
21 editing process in the letter, I should say.

22 MR. GELHAAR: Again, if the only way you know that
23 is because someone like Marc Brown or another client told
24 you, you would have to tell them that you couldn't respond.

25 MS. BARAN: That's right.

1 MS. BERNSTEIN: But I would like to suggest if they
2 tell you not in the context of seeking legal advice, sort of
3 telling you logistically, "I've looked at the letter," I
4 don't think that would be privileged.

5 A The only way I would know is through clients asking
6 me for legal advice.

7 MS. BARAN: Mark this one.
8 (SEC Exhibit No. 660 was marked for
9 identification.)

10 BY MS. BARAN:

11 Q I'm going to hand you what we've marked as
12 Commission Exhibit 660, six six zero. 660 is a one-page
13 document with a Bates number of 103678. This is an e-mail
14 from yourself sent Sunday, August 12, at what would really be
15 5:34 p.m. ?

16 A Uh-huh.

17 Q And you send it to Glenn Ciotti and Mitch Shames
18 with the subject "Call with Liz."

19 Do you see that?

20 A I do.

21 Q Now, your e-mail indicates "Liz and I are talking
22 tomorrow, Monday morning at 9:00 about," redacted.

23 Can you tell me, just to get the privilege log
24 style information, without revealing attorney-client
25 communications or legal advice, can you tell us whether you

1 spoke with Liz on August 13th?

2 A Yes, I believe I did.

3 Q And was the general subject matter of that
4 conversation Mr. Flannery's letter or FAQ's or both?

5 A I know we discussed FAQ's. I don't recall what
6 else, if anything.

7 Q Did you have any conversations with Ms. Fries other
8 than what we've seen marked in the exhibits before Mr.
9 Flannery's letter went out regarding Mr. Flannery's letter?

10 MR. GELHAAR: I'm sorry, could you say that one
11 more time.

12 MS. BARAN: Sure.

13 BY MS. BARAN:

14 Q Did you have any conversations with Ms. Fries
15 concerning Mr. Flannery's letter other than what we've
16 already marked, but before it went out? In other words, from
17 I believe August 8th to August 13th, did you have any
18 conversations with her concerning Mr. Flannery's letter?

19 A I don't recall.

20 MR. GELHAAR: And by that answer, just so the
21 record's clear, do you mean that you recall that you had none
22 or you don't recall one way or the other?

23 THE WITNESS: Sorry. I don't recall one way or the
24 other.

25 MS. BARAN: Thank you.

1 Mark this, one, please.

2 (SEC Exhibit No. 661 was marked for
3 identification.)

4 BY MS. BARAN:

5 Q I'm handing you what we've marked as Commission
6 Exhibit 661. Exhibit 661 has numbers ranging from 103667
7 through 103670. Just take a look through and let me know
8 when you're ready.

9 A All right.

10 Q And outside of consultation with counsel, have you
11 seen this exhibit before?

12 A Not -- I don't recall seeing it before.

13 Q Okay. Noting, though, that at least on the top two
14 e-mails that we see in Commission Exhibit 661 and in fact
15 throughout, you're either a sender or recipient. Do you
16 notice that? Again, with the exception of the final e-mail
17 on this chain.

18 A Yes, I am.

19 Q Okay. And, again, does that refresh any
20 recollection of the general subject of what was going on in
21 all of these e-mails?

22 A I believe it's the same group of e-mails we were
23 just discussing about the two versions, yes.

24 Q With the exception perhaps of the top e-mail here,
25 and that's what I'm going to direct your attention to.

1 whether it was for the -- that what information was being
 2 provided, what legal advice was being sought here. Now, was
 3 the legal advice that was being sought what GAA's strategy
 4 should be? Is that what the legal advice was?
 5 MR. GELHAAR: I understand.
 6 MS. BERNSTEIN: Versus "Here's what we're doing.
 7 Given that this is what we're doing, what should we do now?"
 8 MR. GELHAAR: I understand the issue, and I'll put
 9 it to the bank's counsel.
 10 MS. BARAN: Okay. 3:38 p.m., we're off the record.
 11 (A brief recess was taken.)
 12 MS. BARAN: We are back on the record at 3:55 p.m.
 13 after a break during which time there was no discussion had
 14 of any substance between the witness and counsel; is that
 15 correct?
 16 THE WITNESS: Yes.
 17 MS. BARAN: There was a question pending when we
 18 went off the record, restate that, please.
 19 (The reporter read back the record.)
 20 BY MS. BARAN:
 21 Q And can you answer that question for us?
 22 MR. GELHAAR: Okay. I assumed there was a
 23 different answer. I'm sorry, can you repeat the question.
 24 (The reporter read back the record.)
 25 MR. GELHAAR: I understand the bank is not

1 asserting a privilege to that?
 2 MS. BARAN: No. The bank is asserting privilege to
 3 that.
 4 MR. GELHAAR: Oh, well, then I'm glad you said
 5 that. Then you may not answer.
 6 MS. BARAN: Okay.
 7 THE WITNESS: All right.
 8 MS. BARAN: Sorry about that, yes, the bank was
 9 asserting privilege to that. Did not change their view.
 10 BY MS. BARAN:
 11 Q Okay. I want to move our discussion to frequently
 12 asked questions. You had discussed briefly that you began to
 13 review frequently asked questions. Do you recall telling us?
 14 A Yes.
 15 Q Can you tell us why frequently asked questions were
 16 created during July/August 2007?
 17 THE WITNESS: I know this because of client
 18 communications. Is it okay for me to answer?
 19 MR. GELHAAR: Do you know the answer to why FAQ's
 20 were created by any other means other than client
 21 communications?
 22 THE WITNESS: No.
 23 MR. GELHAAR: Can't answer.
 24 MS. BARAN: Then let's ask some basic questions.
 25 BY MS. BARAN:

1 Q Did you learn, then, that FAQ's were being created
 2 in the course of some discussion?
 3 A Yes.
 4 Q Okay. Who participated in this discussion?
 5 A Mitch Shames, Staci Reardon. That's all I can
 6 recall.
 7 Q Okay. And when did the discussion take place?
 8 A The end of July.
 9 Q And where did the discussion take place?
 10 A I don't recall.
 11 Q Was it a meeting or a phone call?
 12 A I don't recall that either.
 13 Q How long did it take?
 14 A I don't remember.
 15 BY MR. BAKER:
 16 Q Had frequently asked questions already been
 17 prepared as of the time of this conversation?
 18 A I don't believe so.
 19 BY MS. BARAN:
 20 Q Okay. Then without revealing any privileged
 21 communications or legal advice, did someone in legal
 22 participate in creating a first version of FAQ's?
 23 A I do not know.
 24 Q Did you participate in -- well, when did you first
 25 see a version of the FAQ's?

1 A Late July.
 2 Q And did you see it while you were on vacation?
 3 A I don't know whether it was right before I went on
 4 vacation or while I was on vacation. I believe it was right
 5 before I went on vacation.
 6 Q Okay. And the version that you saw, did you
 7 participate in drafting the version of the FAQ's that you
 8 saw?
 9 A No. All I did was review and provide edits.
 10 Q And your review and providing of edits happened
 11 after the time you first saw a version of FAQ's that had
 12 already been created with questions and answers?
 13 A Correct.
 14 Q You didn't participate from the ground up?
 15 A Correct.
 16 Q Okay. Let me hand you what we marked as Commission
 17 Exhibit 641. There you go.
 18 Commission Exhibit 641 is a one-page document that
 19 is an e-mail between Nick Mavro sent Wednesday, July 25th,
 20 2007, 10:38 p.m., but we know that's really 6:38 p.m., to
 21 Staci Reardon; subject: "Subprime action plan."
 22 If you could read through this real quick and let
 23 me know when you're ready.
 24 A Okay.
 25 Q And have you seen this e-mail before outside of

1 consultation with counsel?
 2 A No.
 3 Q Again, outside of -- outside of any privileged
 4 attorney-client communications and without asking you to
 5 disclose legal advice, did you participate in any
 6 communications in which a step-by-step action plan for
 7 dissemination of, among other things, FAQ's within SSgA was
 8 discussed?
 9 A Yes.
 10 Q Okay. And is that the same meeting that you were
 11 talking about before or a different meeting?
 12 A This is a different meeting.
 13 Q Okay. Then let's talk about that meeting. A
 14 meeting at which the general subject matter was dissemination
 15 of FAQ's to relationship managers, is that what you're
 16 thinking of?
 17 A I'm thinking of a meeting with respect to -- with
 18 regard to the process for creating FAQ's.
 19 Q Okay. Process for creating FAQ's. And when did
 20 that meeting take place?
 21 A It was either the week of the 25th or the first
 22 week I was back, the first full week of August.
 23 Q Does seeing the date on this particular e-mail,
 24 Wednesday, July 25th, 2007, did you participate in the
 25 communication with regard to the process for creating FAQ's

1 before or after that date?
 2 A I don't know.
 3 Q Okay. So where did this meeting take place?
 4 A Sean Flannery's office.
 5 Q And who took part in the meeting?
 6 A Sean and myself, Paul Greff, Marc Brown. That's
 7 all I can remember.
 8 Q How long did the meeting take place for? How long
 9 did it last?
 10 A Half hour, maybe.
 11 Q Did you take any notes?
 12 A No, not that I recall.
 13 Q Did anyone else?
 14 A Not that I recall.
 15 Q Okay. Let's look at -- I want you to refer back to
 16 Commission Exhibit 641 real quick. On step 4, the e-mail
 17 reads "Hold meeting with fixed income team and client-facing
 18 team to explain the situation and walk through the FAQ's to
 19 be sure everyone is on the same page. Hold meeting on Friday
 20 morning."
 21 Do you see that?
 22 A Yes.
 23 Q Did you attend a meeting which involved the fixed
 24 income team and the client-facing team that, among other
 25 things, explained the situation and walked through the FAQ's?

1 A I don't recall a meeting with both of those teams.
 2 I recall a meeting I attended with the client-facing team.
 3 Q Tell me about the meeting with the client-facing
 4 team.
 5 A We talked about the use of the FAQ's.
 6 Q All right. Who else participated in that meeting?
 7 A Staci Reardon, Larry Carlson, Marc Brown, and the
 8 remainder of the relationship managers. Or a large group of
 9 relationship managers.
 10 Q And when did this meeting take place?
 11 A I don't recall.
 12 Q Was it before or at the same time or after the July
 13 26th letter was sent?
 14 A I believe it was after the July 26th letter was
 15 sent.
 16 Q All right. And what was discussed at this meeting,
 17 then, that you can recall? Who was the primary presenter?
 18 A Staci Reardon.
 19 Q And what kind of things was she telling them?
 20 A She was explaining that the FAQ's were going to
 21 come out and how they should be used.
 22 Q Was she referring to an earlier version of FAQ's
 23 that you can recall, or had FAQ's already been in use at the
 24 time this meeting took place?
 25 A I don't know. I don't recall.

1 Q What did she say? Is it accurate to say she was
 2 speaking to the relationship managers?
 3 A Yes.
 4 Q Okay. What was she telling them?
 5 MR. GELHAAR: You were -- you were at this meeting?
 6 THE WITNESS: Yes.
 7 MR. GELHAAR: Were you there to provide legal
 8 advice?
 9 THE WITNESS: Yes.
 10 MR. GELHAAR: At any time during the meeting did
 11 you provide legal advice?
 12 THE WITNESS: I did.
 13 MR. GELHAAR: I think the bank would have us
 14 assert.
 15 MS. BARAN: Okay.
 16 BY MS. BARAN:
 17 Q Let's get a general subject matter, then. Was the
 18 general subject matter of the discussion, is it accurate to
 19 say that this was a meeting with regard to how the
 20 relationship managers were to use the FAQ's with clients?
 21 A Yes, that is correct.
 22 Q Okay. Was the general subject of the meeting also
 23 with regard to information that the relationship managers
 24 could or could not disclose to their clients?
 25 A I don't recall that being a subject.

1 Q Okay. Was the general subject matter of the
2 meeting also with regard to the manner in which the
3 relationship managers could disclose the information on the
4 FAQ's to clients?
5 A I'm not sure I understand that.
6 Q Is part of Ms. Reardon's presentation of the RM's,
7 is part of the presentation that she gave something that
8 talked about how the relationship managers were supposed to
9 use the FAQ's with their clients?
10 A Yes.
11 Q Okay. And what did she say?
12 MR. BAKER: Could I just clarify that you're
13 asserting the attorney-client privilege with respect to
14 communications among non-lawyers at a meeting where a lawyer
15 was present, or is it just communications to or from the
16 lawyer?
17 MR. GELHAAR: I'm asserting the privilege with
18 respect to the last question, which I believed called for
19 what was communicated to Mr. Dwyer and others at the meeting
20 at which he was present to provide legal advice.
21 MS. BERNSTEIN: Right. But he's only -- but unless
22 she communicated it to him for the purpose of rendering legal
23 advice, it is privileged, and I agree with you. But if the
24 reason that she's saying it is to communicate to the RM's,
25 and he happens to be sitting in the room, that doesn't make

1 it privileged.
2 MS. BARAN: Well, let's ask --
3 MS. BERNSTEIN: So let's break it apart.
4 BY MS. BERNSTEIN:
5 Q Did you hear Staci Reardon tell the relationship
6 managers how they could and could not use the FAQ's?
7 MR. GELHAAR: In other words, in terms of like a
8 privilege log, was the general discussion --
9 MS. BERNSTEIN: Discussion about how --
10 MR. GELHAAR: -- concerning about how the
11 relationship managers could or could not use the FAQ's?
12 A Yes.
13 BY MS. BERNSTEIN:
14 Q Was that communication that she made directed at
15 you for the purpose of providing legal advice?
16 MR. GELHAAR: And by that do you mean solely to you
17 or you as well as others?
18 MS. BERNSTEIN: RM's. I'm willing to give you that
19 if it's mixed that it's privileged.
20 MR. GELHAAR: Not me.
21 MS. BERNSTEIN: I know. But I'm saying I'm not
22 making a fine distinction.
23 A I believe it was to me for the purpose of providing
24 legal advice as well as to the RM's.
25 BY MS. BERNSTEIN:

1 Q Okay. Did you in fact provide legal advice
2 regarding the dissemination of the FAQ's?
3 A Yes, I did.
4 BY MR. BAKER:
5 Q At this meeting?
6 A At that meeting.
7 BY MS. BARAN:
8 Q And did you provide this legal advice like in some
9 sort of aside to Ms. Reardon, or did you make an announcement
10 to the RM team at the meeting?
11 A I told the entire team.
12 Q Okay. How many people attended this meeting? You
13 know, if you can recall, how many people were there?
14 A I would guess 20.
15 Q Did Mr. Brown present at this meeting?
16 A I don't recall if he presented. I believe he
17 attended.
18 Q Did he speak at all at the meeting?
19 A I don't recall.
20 Q Did anyone at this meeting provide rules of the
21 road with how the FAQ's were to be used?
22 A Yes.
23 Q Was that phrase used?
24 A I don't recall that phrase being used.
25 BY MR. BAKER:

1 Q Were there other attorneys at this meeting besides
2 you?
3 A I don't believe so.
4 Q So were you the only attorney either inside or --
5 you know, in-house attorney at State Street or even outside
6 counsel at State Street that directed the client service
7 people at State Street how they could use the FAQ's?
8 A I don't know.
9 Q When you made the direction to client service
10 personnel in State Street concerning -- State Street Global
11 Advisors concerning how they could use the FAQ's, did you
12 consider whether their use of the FAQ's would violate federal
13 securities laws, section 10(b) of the Exchange Act, section
14 17(a) of the Securities Act?
15 A I do not recall considering those.
16 Q Do you know if other attorneys considered that in
17 relation to the FAQ's and their use?
18 A I don't know. I -- I had discussed them with Liz
19 Fries, and I believe that she would have considered, but I
20 don't know that she did.
21 Q At the time, going back to this July/August 2007 --
22 well, I guess it's late July 2007, to the best of your
23 knowledge of the time frame, did you know whether it was a
24 violation of the federal securities laws to provide material
25 information contained in the FAQ's to some clients in the

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. B-02320-A

5 STATE STREET GLOBAL ADVISORS)

6

7 WITNESS: Mark J. Duggan

8 PAGES: 360 through 518

9 PLACE: Securities and Exchange Commission

10 33 Arch Street

11 Boston, Massachusetts

12 DATE: Friday, March 26, 2010

13

14 The above-entitled matter came on for hearing, pursuant
15 to notice, at 9:12 a.m.

16

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24 Diversified Reporting Services, Inc.

25 (202) 467-9200

1 just, based on what it says, it seems clear he was speaking
2 to Jim Hopkins, and he and Jim Hopkins had had a discussion;
3 he wanted to make sure it was reflected appropriately.

4 BY MS. BARAN:

5 Q Okay. At the time, at July 24, 2007, 3:18-ish,
6 what were "our intentions," you know, with regard to
7 preparation of this letter? Do you know --

8 A I don't know what he was referring to.

9 Q Okay. If you could take a look at page 175 of this
10 exhibit. I'm going to refer you again to the very last
11 paragraph that's in this draft where it starts, "As a
12 result." It reads, "As a result, we are actively analyzing
13 strategies which would enable us, if appropriate, to pare
14 back subprime positions. However, any reductions in these
15 positions will be based on an individual assessment of the
16 specific investment objectives and risk parameters inherent
17 in each investment fund and portfolio."

18 Do you see that?

19 A I do.

20 Q And was that -- you know, asking for your recall at
21 the time, July 24, '07, was that the intention of the
22 portfolio management group to pare back subprime positions if
23 appropriate?

24 A My recollection is that Mitch told me that that is
25 what the intention of the portfolio management group was.

1 Greff about the issue generally, but it was not specific to
2 this letter.

3 Q And when did you have that conversation?

4 A It would have been a few days before this e-mail,
5 probably the 23rd, or the end of the week before.

6 Q And did you -- did you consider the information
7 that you learned in the conversation with Flannery and Greff
8 when reviewing the draft of the letter that you were copied
9 on in this exhibit?

10 A I don't recall.

11 BY MS. BERNSTEIN:

12 Q What information did you learn during that
13 conversation with Flannery and Greff?

14 MR. GELHAAR: The way I understand the waiver,
15 Dina, is that it's -- the limited waiver is with respect to
16 the letters only, and to the extent that the testimony just
17 was --

18 MS. BERNSTEIN: Okay.

19 MR. GELHAAR: -- that the conversation as he
20 remembers it now was not specific to the letter, I would
21 invoke the privilege on behalf of the bank. But, again,
22 you're welcome to discuss that directly with the bank's
23 counsel.

24 MS. BERNSTEIN: Understood.

25 BY MS. BARAN:

1 Q Okay. What did he tell you, with as much
2 specificity as you can recall?

3 A That was the conversation that I was referring to
4 previously where he had explained that not everyone wanted to
5 pare back their positions in certain separate accounts, et
6 cetera. So that the portfolio management group and the
7 product engineering group and the investment teams were going
8 to be reviewing each portfolio separately to determine where
9 it was appropriate to pare back and where not.

10 Q Okay. Did you have any sense about which
11 portfolios would be, quote, pared back versus not?

12 A No.

13 Q No sense about, for example, whether LDBF would or
14 not?

15 A No, I don't know.

16 Q Or whether any funds invested in the LDBF would be,
17 you know, paring back subprime positions if appropriate?

18 A No, I don't -- did not know that.

19 Q Did you have any other knowledge other than the
20 conversation that you're telling us about with Mr. Shames
21 about what the portfolio managers' intentions were?

22 A No.

23 Q No conversations specifically, for example, with
24 Mr. Flannery or Mr. Greff?

3 A I had a conversation with Sean Flannery and Paul

1 Q But, you know, understanding that you had knowledge
2 in your head that you gained from Flannery or Greff at the
3 time you reviewed this letter, did you, again, did you
4 consider the knowledge that you knew while you were reviewing
5 the letter and considering whether the letter was accurate in
6 all respects to be sent to clients?

7 A I don't have a specific recollection. I mean I
8 have to assume --

9 MR. GELHAAR: Well, she doesn't want your
10 assumptions. Maybe she does, but that's not the question
11 before you now.

12 BY MS. BARAN:

13 Q The question before you now is not an assumption.
14 But now I am going to ask for your assumptions. Generally,
15 in your work at SSgA, did you consider knowledge that you
16 knew when you were performing topics that were different from
17 -- okay. Like if you learned about a particular subject in
18 the context of one particular meeting, you still knew that
19 knowledge when you were working on a different type of
20 project within SSgA?

21 A Correct.

22 Q So were you able, then, to use knowledge learned in
23 one setting and apply it while you were performing work in
24 another setting?

25 A Yes.

1 Q So did you gain knowledge in -- with regard to what
2 portfolio managers were doing with regard to the strategies
3 at issue here, active fixed income, LDBF, funds invested in
4 the LDBF, while reviewing the letter for purposes of
5 reviewing it for accuracy for client communications?

6 MR. GELHAAR: I think he's asked and answered that.
7 But you can answer again.

8 A I mean I -- it seems logical. I just don't have a
9 specific recollection of sitting down and thinking, "Okay, I
10 have to remember that when I'm reviewing this." I just don't
11 recall.

12 BY MS. BERNSTEIN:

13 Q Without invading what information you obtained
14 during the meeting with Flannery and Greff, was the
15 information that you obtained from that meeting relevant to
16 your review of the July 26 letter?

17 A Generally, yes.

18 MS. BERNSTEIN: Well, now we're back at it's
19 generally relevant to his review of the letter.

20 BY MS. BERNSTEIN:

21 Q And would it be fair to say that even if you don't
22 have a specific recollection, you would be remiss not to have
23 taken into account that information while reviewing the
24 letter? I mean just to say, "Okay, I'm going to ignore it
25 even though I know it"? Would you have thought that was

1 appropriate?

2 MR. GELHAAR: Would he have thought it was
3 appropriate to ignore the information --

4 MS. BERNSTEIN: Information that he obtained during
5 the meeting with Flannery and Greff when he was reviewing the
6 July 26 letter.

7 A Yes, that would have been remiss to ignore it.

8 MS. BERNSTEIN: Okay. I think we're now back at
9 it's knowledge that he would have used in -- even if he
10 doesn't have a specific recollection, it is information that
11 I think the testimony pretty strongly suggests he used while
12 reviewing this letter, and I think that is within -- and
13 we've had these conversations with State Street's counsel --
14 within the purview of the waiver.

15 MR. GELHAAR: I think it really depends on how you
16 define the word "relevant" in this situation, and while I --
17 again, it's not -- it's not our privilege. We're trying to
18 do the best to interpret and divine what the bank would do in
19 this situation. And, frankly, I think it's a close enough
20 call that I wouldn't feel comfortable about letting him
21 disclose that information until the bank weighs in on it.

22 My understanding is that the bank's counsel is
23 presently unavailable but will become available at some time
24 during the time of the testimony. So I would suggest that we
25 defer on that.

1 MR. BAKER: Can I ask one question?

2 MS. BARAN: Of course.

3 MR. BAKER: Just so we know the full universe to
4 defer on, I guess, without doing it piecemeal with the
5 company.

6 BY MR. BAKER:

7 Q If you could look at Exhibit 717, Mr. Duggan. And
8 this is the exhibit where Mr. Shames e-mails you a draft of
9 what became the July 26th letter; is that correct?

10 A Correct.

11 Q And I believe you testified earlier that he sent
12 you this for your review; is that correct?

13 A Correct.

14 Q Okay. And I think you testified that with regard
15 to the track changes in the letter, it's your understanding
16 that those track changes were Mitch Shames' edits; is that
17 correct?

18 A That's correct.

19 Q So if you look at the end of the letter where there
20 are track changes, there's a sentence that reads, "However,
21 any reduction in these position will be based on an
22 individual assessment of the specific investment objectives
23 and risk parameters inherent in each investment fund and
24 portfolio."

25 Do you see that?

1 A I do.

2 Q And, in fact, you did make an edit to that sentence
3 in your review of the letter; is that correct? By editing
4 the word "position" to make it plural?

5 A Correct.

6 Q Okay. And at the time that you reviewed this
7 letter for the purposes of making that edit, did you know
8 whether the sentence that I just read for the record was
9 accurate or inaccurate?

10 A Sorry, could you repeat the question?

11 Q At the time that you reviewed the sentence in the
12 letter that I just read, the sentence starting with the word
13 "However," going on to "any reductions," et cetera, did you
14 know if the facts contained in that sentence were accurate or
15 inaccurate?

16 A Based on what I had been told, I believed that the
17 statements were accurate.

18 Q And what had you been told?

19 MR. GELHAAR: No. And I think we're going to
20 reserve on that.

21 MR. BAKER: Okay. But just so it's very clear for
22 the record.

23 MR. GELHAAR: I understand.

24 MS. BERNSTEIN: Could we take a break?

25 MS. BARAN: Yes. Let's go off the record, please.

1 version that didn't have this handwriting on it; you probably
2 sent her a version that was without the handwriting and the
3 notes?

4 A I don't know.

5 Q Okay.

6 A It would be practice for me as well to send a
7 version with handwriting on it.

8 Q Oh, really? You would, like, what PDF your
9 handwriting notes and send it to her?

10 A Correct.

11 BY MS. BERNSTEIN:

12 Q And, actually, as I'm looking at the first page, it
13 indicates that it was a PDF. Does that make it likely that
14 you sent it with the notes on top?

15 A Correct.

16 BY MS. BARAN:

17 Q Okay. So tell us everything you can remember about
18 did you have a discussion with Ms. Fries concerning
19 specifically, then, the document that we see at 348 through
20 350?

21 A I did.

22 Q Okay. Tell us about that conversation.

23 A It took place the following day, and we discussed
24 briefly the letter and the changes that I had suggested, and
25 she was comfortable with them and with the letter generally.

1 Q Okay. And so when we look at pages 348 through
2 350, again, are these changes that -- do you think that you
3 sent to her, given especially that this says PDF on the
4 attachment, did you send her, you think, the changes with
5 your handwriting on it, and these were your changes?

6 A Two questions.

7 Q Yes.

8 A The first one, yes, I believe this is the document
9 that I PDF'd and sent to her with the handwritten comments on
10 it.

11 Q Terrific.

12 A And the second question being whether these were my
13 comments, you know, I honestly don't know. There was -- as I
14 said earlier, there was a lot of collaboration in meetings
15 where we would all kind of sit around the table. It's
16 possible that I was certainly involved, but also just
17 combining everyone's comments. It could be that they were my
18 comments. I just don't recall which version this is.

19 Q Okay. Well, you said you discussed the changes
20 that you suggested, and she was comfortable. Can you
21 indicate what changes you suggested?

22 A I meant the changes that were on here.

23 Q Okay. Good to know.

24 Then looking through this, can -- let's take a look
25 specifically at page 350. The top partial paragraph there,

1 of course, contains the sentence "While we will continue to
2 liquidate assets for our clients when they demand it, our
3 advice" -- first I'm going to read it the way it appears --
4 "our advice is to hold the positions in anticipation of
5 greater liquidity in the months to come."

6 That particular sentence, as it was typewritten, on
7 here was drafted by?

8 A I believe by Sean.

9 Q Okay. But there's a line through the words "our
10 advice is to," and then there's words written in a bubble
11 above?

12 A Correct.

13 Q Did you make that edit?

14 A I made that edit, yes.

15 Q Okay.

16 A I don't know if that is -- in other words, I made
17 the writing. I don't know for sure whether I made the
18 substantive comment -- change or not. Whether those specific
19 words were my words.

20 Q Okay. Did you, however, make -- want to make a
21 change from "our advice is to hold" to something that was
22 more like "we believe that many judicious investors will
23 hold"?

24 A Yes.

25 Q Okay. So is it fair to say that the idea of

1 getting this letter away from the phrase "our advice is to
2 hold" was your idea?

3 A Yes.

4 Q But you're not clear whether you are the specific
5 source of the words "we believe that many judicious investors
6 will"?

7 A Correct. I just don't recall writing those words
8 down.

9 Q Okay. Then why did you want to make the change
10 that we see here from "our advice is to hold" to something to
11 the effect of "we believe that many judicious investors will
12 hold"?

13 A The statement "our advice" just struck me as
14 something that, first, SSgA didn't do. They just weren't in
15 the business of providing advice on whether to hold or sell
16 funds for the clients. We just -- SSgA just provided funds
17 and said, "You pick what you want." So it just seemed odd.
18 And particularly given that this was Sean's letter, Sean,
19 being the CIO, was not in the position to really give advice
20 to the clients who had chosen the funds or not chosen the
21 funds. So this seemed like a more -- a more SSgA way of
22 saying what Sean had intended to say.

23 Q And did you believe it was Flannery's opinion that
24 he believed the best advice was to hold the positions?

25 A Absolutely.

1 Q And why did he believe that?
 2 A Oh, he told me and others many times, "Smart money
 3 stays. Selling now is trying to catch a falling knife. This
 4 will revert back in a month or two. People who are leaving,
 5 that's really a dumb decision. We've seen historical
 6 reversions or" -- I don't have the right lingo, but, you
 7 know, "In March this happened, and it was back within two
 8 weeks, and people are locking in their losses now. This is
 9 -- it is not a good move to stay in."
 10 Q Was Mr. Flannery's view -- as far as you know, was
 11 Mr. Flannery's view shared within the PM team?
 12 MR. GELHAAR: Could I have just a moment?
 13 MS. BARAN: Of course.
 14 MR. GELHAAR: Yeah. Can I have his previous answer
 15 read back? I think that he might have done an oral typo.
 16 (The reporter read back the record.)
 17 THE WITNESS: Sorry. That is correct. I mistook
 18 that. I said, "It is not a good move to stay in." It is not
 19 a good move to sell out.
 20 MS. BARAN: Right.
 21 THE WITNESS: Thank you for catching me.
 22 MR. GELHAAR: It was Mr. Kane's catch, not mine.
 23 MS. BERNSTEIN: I heard it. I just knew what you
 24 meant.
 25 BY MS. BARAN:

1 Q You're comfortable with your answer as you've now
 2 re-articulated it?
 3 A Yes. Thank you.
 4 Q Got it. Was Mr. Flannery's view shared, first
 5 within the rest of the PM team, as far as you knew?
 6 A Yes.
 7 Q And how do you know that?
 8 A In these kind of group meetings that I was talking
 9 about where Mike Wands and Paul Greff and sometimes Mike
 10 O'Hara were, they all shared that same view.
 11 Q Was Mr. Flannery's, Wands', Greff's, O'Hara's view
 12 shared throughout SSgA, as far as you know? To make clear,
 13 was their view that, you know, the best money stays, selling
 14 now is catching a falling knife, i.e., it's a bad idea to
 15 sell, was that view shared throughout SSgA?
 16 MR. GELHAAR: When you say "shared," do you mean
 17 did Sean share it with others or --
 18 MS. BARAN: No.
 19 MR. GELHAAR: -- did others agree with the view?
 20 BY MS. BARAN:
 21 Q Did others agree with the view?
 22 MR. GELHAAR: Based on what they told you, I'm
 23 assuming is part of the question.
 24 THE WITNESS: Right.
 MS. BARAN: That is correct.

1 A I don't think I really had discussions with a lot
 2 of other people about it. I was kind of listening to them,
 3 to Sean and the fixed income portfolio managers.
 4 BY MR. BAKER:
 5 Q Well, how about anyone?
 6 A As to whether they agreed with this, with this
 7 concept?
 8 MS. BARAN: Yes.
 9 BY MR. BAKER:
 10 Q I mean I think that the question is: Was the view
 11 universal within SSgA that it was a bad idea to sell, based
 12 on your understanding?
 13 MR. GELHAAR: I have a basic problem with him
 14 testifying as to whether he thought something was universally
 15 understood in SSgA.
 16 MR. BAKER: Fair enough.
 17 MR. GELHAAR: I just have to put that on the
 18 record.
 19 MR. BAKER: Okay. I think he said, "I didn't have
 20 conversations with a lot of other people about it."
 21 BY MR. BAKER:
 22 Q And I'm just wondering, did you have conversations
 23 with even one other person about it?
 24 A I'm sorry, I need a break for a second. I'm not
 25 sure how to answer it. I want to ask my counsel.

1 MR. GELHAAR: Let me just ask you, just to -- are
 2 you concerned that if you answer this, that you might --
 3 THE WITNESS: Step on privilege.
 4 MR. GELHAAR: -- cause a waiver of the attorney-
 5 client privilege beyond the limited waiver that the bank has
 6 made?
 7 THE WITNESS: I am.
 8 MS. BARAN: Then before we go off the record, can I
 9 ask a different question?
 10 BY MS. BARAN:
 11 Q Okay. You also testified earlier that part of the
 12 reason why you changed or why you advocated a change away
 13 from the letter saying "our advice is to hold" to something
 14 to the effect of "we believe that many judicious investors
 15 will hold" was because "SSgA didn't do this; we didn't make
 16 the advice."
 17 Are you aware of groups within SSgA who did advise
 18 their clients on whether they should hold or not hold
 19 particular positions?
 20 A In general, yes. There were two -- three small
 21 groups which were in that business, but that was the very --
 22 I believe the very small part of SSgA.
 23 MS. BARAN: Okay.
 24 BY MR. BAKER:
 25 Q I guess just so it's clear for the record, Mr.

1 the editing of the August 14th letter? Was she seeing drafts
2 up until the time it went out August 14th?

3 A I believe so. We were relying heavily on outside
4 counsel at that time.

5 Q And what was -- what did you see her role in terms
6 of reviewing the August 14th letter?

7 A Really, to provide another legal review of the
8 letter based on what she knew and what she had seen and what
9 she thought of the letter.

10 BY MR. BAKER:

11 Q Did you provide her the draft, any version of the
12 FAQ's, the version that you were provided on August 12, which
13 are on a privilege log, so we don't know whether they are
14 draft or final, but did you provide her those FAQ's for
15 purposes of her editing the letter, the August 14th letter,
16 or reviewing it?

17 A You know, I can't say for sure, so much was going
18 on, whether I was focussed providing them the August 14th
19 letter or for general review or for an overall picture. I
20 just -- I don't recall.

21 Q Well, was outside counsel involved in reviewing the
22 draft FAQ's?

23 MR. GELHAAR: Well, I think that goes beyond the
24 limited waiver, and that would open up an entire other issue
25 or -- apart from the letters, and so I would really have to

1 Q I was going to try the question a different way.

2 What information did SSgA provide to outside counsel,
3 including Ms. Fries, for their review of the August 14th
4 letter?

5 A Well, we provided, obviously, a draft or drafts of
6 the letter. We had conversations to discuss proposed
7 changes. I believe they had FAQ's. They had the previous
8 letter. I don't recall anything else.

9 Q Fact sheets? Did they have fact sheets for
10 purposes of the review of the August 14 letter?

11 A I don't recall.

12 Q Fund declarations? Again, I'm just listing things
13 that they may --

14 A No.

15 Q If you can recall whether they had them for
16 purposes of review of the August 14th letter.

17 A I don't recall.

18 Q How about PowerPoint presentations about Limited
19 Duration Bond Fund or other actively managed fixed income
20 funds, did outside counsel have prior PowerPoint
21 presentations on those funds for purposes of their review of
22 the August 14th letter?

23 A I don't remember.

24 Q What about CAR alerts? Again, for the purpose of
25 reviewing the August 14th letter.

1 ask the bank about that question.

2 MS. BERNSTEIN: Well, we're just asking whether
3 there -- we're not asking for the content, I think. We're
4 just asking whether or not they were involved in the process.
5 And, again, I think that would end up -- you know, we could
6 tediously come up with it on a privilege log if we saw enough
7 versions of it one way or another.

8 MR. GELHAAR: I make that prediction based on the
9 fact that I think in the first go-round before the limited
10 waiver when things went to outside counsel, they were all
11 redacted, and so I'm assuming that the bank is taking the
12 position that what they did in connection with anything that
13 was given to them is privileged. But I'm happy to call the
14 bank about that.

15 MS. BERNSTEIN: Right. But they redacted the
16 contents of it. They weren't redacting the fact that they
17 were sent. And so the question is -- I guess we're back to
18 why were they sent.

19 MR. GELHAAR: I think he can and has testified that
20 he understood that Liz Fries was looking at the letter, the
21 August 14th letter, and relied on her review of that. I'm
22 just not sure that he's allowed to talk about what he did, if
23 anything, with respect to Ms. Fries and the FAQ's. But,
24 again, I'm happy to inquire.

BY MR. BAKER:

1 A I don't know.

2 BY MR. BAKER:

3 Q And how about letters that were generated after CAR
4 alerts? In other words, letters based on CAR alerts? Did
5 outside counsel have any of those for purposes that they
6 reviewed the August 14th letter?

7 A The only one I'm aware of is the July 26 letter
8 that that they had.

9 Q Okay. That's the only letter that you're aware of?

10 A That's the only CAR alert that turned into a
11 letter. I had never heard of CAR alerts before. So I don't
12 know if they had others.

13 BY MS. BERNSTEIN:

14 Q In your conversations with Ms. Fries, did she ever
15 ask specifically for particular pieces of information?

16 MR. GELHAAR: For the purposes --

17 MS. BERNSTEIN: Of reviewing the August 14th
18 letter.

19 A I don't recall her asking for anything specific.

20 BY MS. BERNSTEIN:

21 Q If not specific, do you have any general
22 recollection as to types of information that she thought
23 might be necessary in order to review the August 14th letter?

24 A I don't remember.

25 BY MR. BAKER:

1 Q How involved was Ms. Fries in the drafting of the
2 August 14th letter from your perception at the time?
3 A She was reviewing it and providing comments. I
4 mean I don't --
5 Q Did you get the sense she was spending a very small
6 amount of time on the letter, a large amount of time? Did you
7 have any perspective on that at all?
8 A No, I don't have any perspective on that.
9 BY MS. SHIELDS:
10 Q Do you know about how many drafts of the August
11 14th letter were sent to Ms. Fries?
12 A I don't recall.
13 Q Did you discuss it with her on more than one
14 occasion?
15 A I believe so, yes.
16 Q Do you recall about how many occasions there were
17 in which you discussed the August 14th letter with Ms. Fries?
18 A I don't. I just have a general sense that we
19 talked every couple of days, but I don't have a specific
20 recollection of numbers.
21 Q So can you say it was maybe more than one time but
22 fewer than ten times?
23 A Yes.
24 BY MS. BERNSTEIN:
25 Q Do you have an understanding whether Ms. Fries ever

1 believe many judicious investors will hold"?
2 A Yes.
3 Q And did they express any other reasons why -- did
4 they express to you any other reasons why they felt that edit
5 was appropriate?
6 A Not that I recall.
7 MR. GELHAAR: Can I have a quick moment?
8 MS. BARAN: Of course.
9 MR. GELHAAR: I'd like to take a momentary break
10 with the client, if we may.
11 MS. BARAN: Of course. We're off the record at
12 3:35.
13 (A brief recess was taken.)
14 MS. BARAN: We're back on the record after a brief
15 break at 3:42 p.m.
16 And during the break, there was no discussion had
17 of any substance between the witness and the staff; correct?
18 THE WITNESS: Yes.
19 MS. BARAN: Okay. I think that, counsel, you had a
20 clarifying question you wanted to ask?
21 MR. GELHAAR: Right. During the break, the staff
22 and counsel for Mr. Duggan had a discussion about one of the
23 questions that Mr. Baker had, and I just wanted to make sure
24 that the record was completely clear on one particular issue,
25 and the staff has agreed to indulge me to allow me to ask

1 spoke directly to Sean Flannery regarding the August 14th
2 letter?
3 A I don't recall that happening, but it could have. I
4 just don't know.
5 BY MR. BAKER:
6 Q Did you ever see Goodwin Procter's billing records
7 with regard to the August 14th letter review?
8 A No.
9 Q Who would those go to at SSgA?
10 A The invoices would have gone to Mitch.
11 Q Mitch Shames?
12 A Yes.
13 BY MS. BERNSTEIN:
14 Q Did Sean Flannery know Liz Fries prior to this time
15 period, the August 14th -- when the August 14th letter was
16 being edited?
17 A Yes. Liz was our kind of go-to counsel for years.
18 So she was familiar with a lot of our business people.
19 Q And had there been occasions that a business
20 person, such as Sean Flannery, would reach out directly
21 without going through in-house counsel?
22 A That had happened, yes.
23 BY MS. BARAN:
24 Q Did Mr. Shames and Ms. Fries generally agree with
25 the change in the letter from "our advice is to hold" to "we

1 just a couple questions to make sure that the record is clear
2 on a particular issue.
3 BY MR. GELHAAR:
4 Q I believe Mr. Baker asked in words or in substance
5 a question to the effect, what did SSgA provide to outside
6 counsel for the purpose of reviewing the August 14th letter,
7 and you had an answer for that.
8 With respect to the FAQ's, did you understand that
9 anyone from SSgA provided those to Ms. Fries specifically for
10 the purpose of her reviewing the August 14th letter, or did
11 you understand Mr. Baker's question to be what is it that Ms.
12 Fries had in her possession that she could have used to
13 review or to enable her to review the August 14th letter?
14 A I understood Mr. Baker's question to be the latter,
15 and that's the question that I answered.
16 MR. GELHAAR: Okay. Then with that clarification,
17 if Mr. Baker wants or anyone wants further follow-up
18 questions, please, you should ask. Okay.
19 (SEC Exhibit No. 721 was marked for
20 identification.)
21 BY MS. BARAN:
22 Q All right. I'm handing you what we just marked as
23 Commission Exhibit 721. And Exhibit 721 has Bates numbers of
24 SS-SEC 103864 through 867, and just for identification,
25 there's an e-mail stamp at the top of the first page

1 THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. B-02320-A

5 STATE STREET GLOBAL ADVISORS)

6

7 WITNESS: Mark Duggan

8 PAGES: 519 through 534

9 PLACE: Securities and Exchange Commission

10 33 Arch Street

11 Boston, Massachusetts

12

13 DATE: Friday, May 7, 2010

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16 The above-entitled matter came on for resumed hearing,

17 pursuant to notice, at 2:05 p.m.

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24 Diversified Reporting Services, Inc.

25 (202) 467-9200

1 there anything else that can affect your ability to
 2 understand the questions here today or to recall information?
 3 A No.
 4 Q Okay. I am going to show you a copy of Commission
 5 Exhibit 80. Copies all around.
 6 And this is just here for your reference primarily.
 7 We have shown you in previous testimony copies of Commission
 8 Exhibit 80. And as you can see, beginning on the page that
 9 is numbered in the lower right, SS SEC 87631, through the
 10 end, I believe, are two different versions of the August 14,
 11 2007 letter that was sent to clients.
 12 Are you familiar with this exhibit?
 13 A Yes, I am.
 14 Q And do you recognize this letter as being -- or at
 15 least you have no reason to doubt that this is the final
 16 version of the August 14, 2007 letter?
 17 A That's correct.
 18 Q Okay. Now, you previously testified that you had
 19 had a telephone conversation with Ali Lowe of SSgA on the
 20 afternoon of July 26, 2007, at or around 4:00 p.m. Do you
 21 recall that testimony?
 22 A I do.
 23 Q Do you recall that phone call?
 24 A I do.
 25 Q And you recall your prior testimony in a general

1 respect to Ali Lowe's views as to whether or not he should
 2 hold those interests.
 3 MS. BERNSTEIN: And what was that inference?
 4 THE WITNESS: I inferred that he did not want to
 5 hold them any longer.
 6 MS. BERNSTEIN: And on what do you base your
 7 inference?
 8 THE WITNESS: On --
 9 MR. GELHAAR: She is not asking you, I am assuming,
 10 the specific words of Mr. Lowe --
 11 THE WITNESS: No.
 12 MR. GELHAAR: -- I am assuming, on the conversation
 13 or something else, is that what you are asking him?
 14 MS. BERNSTEIN: Yes, at this point.
 15 THE WITNESS: On the basis of the questions he
 16 asked me.
 17 BY MS. BARAN:
 18 Q And I believe you may be stopped, but can you tell
 19 us the questions that he asked you.
 20 MR. GELHAAR: We instruct you not to answer on the
 21 grounds of the attorney-client privilege.
 22 MS. BARAN: Okay.
 23 BY MS. BARAN:
 24 Q We have also discussed, and you have testified,
 25 that you made edits to the letter, the final version which we

1 way about that phone call?
 2 A Yes.
 3 Q You had previously testified that the general
 4 subject matter of that call was GAA's strategy with respect
 5 to its investment in the active fixed income funds, including
 6 LDBF; do you recall that generally?
 7 A Yes.
 8 Q And that's accurate that that was the general
 9 subject matter of that telephone call?
 10 A Yes, it is.
 11 Q And do you have recall of that conversation as we
 12 sit here today?
 13 A Yes.
 14 Q Okay. Now, as a result of that conversation with
 15 Mr. Lowe, did you develop any understanding of whether the
 16 GAA group believed that its clients should continue to hold
 17 LDBF or related strategies?
 18 MR. GELHAAR: Could you repeat that question.
 19 MS. BARAN: Yes.
 20 BY MS. BARAN:
 21 Q As a result of the conversation with Ali Lowe, did
 22 you develop an understanding of whether the GAA group
 23 believed that its clients should continue to hold LDBF or
 24 related strategies?
 25 A I made an inference based on the conversation with

1 see marked as Commission Exhibit 80, the letter of August 14,
 2 2007.
 3 Do you recall that testimony?
 4 A Yes, I do.
 5 Q Is it accurate to say that you did make certain
 6 edits to the letter we see marked within Exhibit 80, correct?
 7 A Yes.
 8 Q Now, when you made edits to the August 14 letter,
 9 did you consider at all the inference that you had drawn
 10 based on the conversation that you had had with Ali Lowe in
 11 which you drew an inference that you believed that Ali Lowe
 12 did not want to instruct his clients to continue to hold the
 13 LDBF or the related strategies?
 14 A I'm sorry, could you repeat that?
 15 Q I will give it a shot.
 16 MS. BERNSTEIN: Let me see if I can do it clearer.
 17 When you were providing edits on the August 14
 18 letter, did you consider any inferences you took from your
 19 conversation with Ali Lowe?
 20 THE WITNESS: I do not recall doing so.
 21 BY MS. BARAN:
 22 Q And when you were providing edits to the August 14,
 23 2007 letter, did you discuss with anyone, first off, any
 24 inferences that you had taken from your conversation with Ali
 25 Lowe that we have already discussed?

EXHIBIT 4

1 UNITED STATES SECURITIES AND EXCHANGE Commission

2

3 In the Matter of:)

4) File No. B-02320-A

5 STATE STREET GLOBAL ADVISORS)

6

7 WITNESS: Mitchell H. Shames

8 PAGES: 1 through 194

9 PLACE: Securities and Exchange Commission

10 Boston Regional Office

11 33 Arch Street

12 Boston, Massachusetts

13 DATE: Friday September 25, 2009

14

15 The above-entitled matter came on for hearing, pursuant
16 to notice, at 9:30 a.m.

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24 Diversified Reporting Services, Inc.

25 (202) 467-9200

1 A I don't know where those letters or communications
2 actually, you know, where they went to.

3 Q What was the intended final audience of those
4 letters?

5 A My understanding was that it was going to the
6 investor base who had exposure through whatever vehicles in
7 subprime.

8 Q And is that the same, with regard to each of the
9 three investment commentaries and the Prudential
10 litigation-related document?

11 A I had, I am aware of the July investment commentary
12 as well as the first one that went out in August, third
13 communication, but the second one in August, I had very
14 little involvement with, so I can't comment who that was
15 intended to. But the first two, my memory is that, it was
16 intended to go to investors in those funds, who had subprime
17 exposure.

18 The October communication, it was my understanding,
19 it was going to go to all of SSgA's clients and it possibly,
20 my memory is that it could also have been intended to, gone
21 out to, like, in a press release type of form, that is a
22 vague memory.

23 Q Okay. At least with regard to the two that you had
24 some involvement in, we haven't gotten to how much
25 involvement, but some involvement?

1 A Sure.

2 Q And the Prudential litigation-related document, I
3 assume that there are facts in each of these documents; is
4 that fair to say, like, including the potential risk
5 reduction or exposure factor that you just testified about?

6 A I assume, I mean, I'm not looking at it, I assume
7 they are facts.

8 Q Do you have a recollection of there being facts
9 described in these letters to investors?

10 A Yes. There were some facts, but there was also a
11 lot of, what I would characterize as, investment opinion.

12 Q Okay. Well, with regard to just the fact portion?

13 A Yes.

14 Q For whatever was expressed in these letters, did
15 you, in reviewing these documents, in whatever involvement
16 you had in the documents, did you just accept the facts as
17 true, or did you do anything to test the accuracy or
18 completeness of the facts, as they were expressed in the text
19 of the document?

20 MR. HENNES: If I could just interrupt? It might be
21 easier if you go one by one, simply because they are separate
22 communications and involvement in each one was different.

23 BY MR. BAKER:

24 Q Well, is the answer going to be different? I mean
25 in other words, with regard to some facts in these

1 commentaries, did you sometimes do follow-up inquiry as to
2 accuracy and completeness and sometimes not, or was it always
3 that you did, or always that you didn't?

4 A As my role as general counsel of SSgA, I viewed my
5 primary obligation and responsibility to be, to assemble the
6 right team with the right expertise to handle various
7 matters. By training, I'm a tax and ERISA lawyer, so when
8 these -- when I received the first draft of this investment
9 commentary, I assembled the right team, which in my mind was
10 Mark Duggan, Chris Douglass, Glenn Ciotti and Liz Fries. And
11 while I reviewed the documents for purposes of clarity, I had
12 the confidence that my team of counsel was doing what they
13 deemed necessary to review the communication.

14 BY MS. BERNSTEIN:

15 Q And is that true of the second letter as well as
16 the first one?

17 A Yes.

18 BY MR. BAKER:

19 Q And is it true as of the Prudential litigation
20 letter as well?

21 A Yes --

22 Q Who -- sorry.

23 A Although, the team, it was the legal team, okay, so
24 some specific lawyers looked at one, but not another, but the
25 legal team of inside and outside counsel.

1 Q Okay. But in terms of your involvement, it was the
2 same, in other words, you assembled the team, but didn't
3 yourself do any independent fact-checking; is that correct?

4 A Correct, I reviewed the letter for clarity
5 purposes, and again, this varies by communication, but I was
6 involved in the collection and coordination of comments.

7 MR. HENNES: And when you said "the third letter,"
8 you really meant the October letter, not the August 14
9 letter, which is the third letter, chronologically?

10 THE WITNESS: Sorry.

11 MS. BERNSTEIN: I was assuming that he meant the
12 third letter he had involvement in.

13 THE WITNESS: Yes, thank you.

14 BY MR. BAKER:

15 Q And we will look at the letters to avoid any
16 confusion on that on the record, but just so your testimony
17 is clear, with regard to any letters that went to investors
18 on subprime matters in 2007 by SSgA or anyone at SSgA, if
19 somebody signed the letters, did you ever do any of your own
20 fact checking about facts that were expressed in those
21 letters?

22 A Well, in my review of the communications for
23 clarity purposes, based upon my knowledge, there was --
24 nothing gave rise for me to warrant to looking into any of
25 the facts that were set forth. These were facts -- these were

1 first letter that you see there, is a letter that's referred
 2 to as "July 27th letter to clients"?
 3 A Yes.
 4 Q And I think you will actually see in the text of
 5 the e-mail, it's dated either July 26th or July 27th, okay?
 6 A Yes.
 7 Q So with regard to that letter, have you had an
 8 opportunity now to read it?
 9 A Yes.
 10 Q Okay. And prior to the end of your employment at
 11 State Street Global Advisors on October 26 of 2007, did you
 12 see a final version of this letter, the July 27th letter?
 13 A I do not recall if I saw this version of the
 14 letter.
 15 Q Okay. Did you see any drafts of what's referred to
 16 here in Exhibit 16 as the "July 27th letter to clients"?
 17 A I remember seeing and reviewing drafts of a
 18 communication, which resulted in a letter to clients. I
 19 just, you know, am unable to say that this is the letter.
 20 Q Who drafted this letter, the July 27th letter?
 21 A My memory is that this letter is the same
 22 communication that I referred to earlier as the "market
 23 commentary," and my memory is that, this was drafted by
 24 senior level fixed-income professionals as well as -- yes,
 25 the senior fixed-income professionals. Possibly some client

1 privileged answer.
 2 THE WITNESS: No, I don't recall as to why he
 3 wanted it reviewed.
 4 BY MS. BERNSTEIN:
 5 Q Which lawyers, if any, did review this July 27th
 6 letter?
 7 A First, I just want to be clear for a second. I'm
 8 not sure if it was precisely this letter, but the
 9 communication that came out in July, I received it first, and
 10 I reviewed it quickly, and saw that it was an investment
 11 commentary and I then relayed it to Mark Duggan, Chris
 12 Douglass and eventually I brought in Glenn Ciotti as well,
 13 and I also forwarded a copy to Liz Fries for review.
 14 Q Did you provide any edits, in connection with the
 15 July 27th letter?
 16 A I don't recall specific edits.
 17 Q Even if you don't recall a specific edit that you
 18 did, did you mark it up in any way, to the best of your
 19 recollection?
 20 A I may have.
 21 Q Did you have any conversations with Sean Flannery
 22 or others, as to what it meant if you marked up a letter? In
 23 other words, what kind of advice -- let me rephrase that.
 24 Did you have any communications, I'm not asking about the
 25 content at this point, just sort of a "yes or no," did you

1 service, or client-facing professionals may have reviewed
 2 drafts.
 3 Q You say "senior level fixed-income professionals;"
 4 who?
 5 A My memory is that it would have been Sean Flannery,
 6 I think Mike Wands. Who else? Possibly Frank Gianatasio,
 7 members of the active fixed-income team. And I'm unclear if
 8 possibly Larry Carlson, Adele Kohler, may have been involved.
 9 These were people who were generally involved in the review
 10 process.
 11 Q I think you said, you think Mike Wands, maybe
 12 Gianatasio, I don't remember exactly what word you used, but
 13 essentially possibly Kohler and Carlson, you didn't have any
 14 sort of qualifier there for Mr. Flannery, are you sure Mr.
 15 Flannery was involved in the drafting of this letter?
 16 A As to the specific, who wrote the letter, it could
 17 be any of those, including Sean, Mr. Flannery. What I do
 18 remember is that Mr. Flannery had said to me that a
 19 communication was being prepared and that he wanted it
 20 reviewed by the legal group, but as far as who drafted it, I
 21 don't have that specific knowledge.
 22 BY MS. BERNSTEIN:
 23 Q Without getting, do you have any understanding why
 24 he wanted it reviewed by the legal group?
 25 MR. HENNES: To the extent that doesn't call for a

1 have any communications with Sean Flannery or others on the
 2 business side, as to what it meant when you edited a
 3 communication?
 4 MR. HENNES: Yes or no, or I don't recall.
 5 THE WITNESS: I don't recall.
 6 BY MR. BAKER:
 7 Q Okay. Just to follow-up on that, you say you
 8 relayed, I think you said you did a quick review of the July
 9 27th letter when you received the initial draft; is that
 10 correct?
 11 A Yes.
 12 Q And then at that point in time, you relayed it to,
 13 relayed the letter to Duggan, Douglass and eventually Ciotti
 14 and Fries?
 15 A Yes.
 16 Q Okay. With regard to -- Deena asked you a question
 17 about if you had an understanding of what your role was in
 18 the letter; what was the role of Duggan in the drafting of
 19 this letter, the drafting, editing, review, approval of the
 20 letter?
 21 A When I reviewed the letter and I identified that it
 22 was a client -- a market commentary, I wanted to bring in
 23 lawyers who specifically had investment and securities
 24 experience. And so I assembled a team which would have -- a
 25 team which I would have been confident in, would have

1 reviewed the letter in a way that they thought was necessary
2 in order for the legal group to sign-off on the letter.

3 BY MS. BERNSTEIN:

4 Q Who was the one who, ultimately, from the legal
5 side of it, signed off on the July 27th letter?

6 A It was a, if you will, what I would call a group
7 sign off, but as head of the legal group, I relied upon the
8 work that the team had done and that the legal group had, in
9 fact, reviewed and signed off on the letter, on a letter.

10 BY MR. BAKER:

11 Q When, in connection with your initial review, did
12 you relay, that's your word "relay," the letter to Duggan?

13 MR. HENNES: I don't remember him using the word
14 relay, but if that's your word --

15 MR. BAKER: I think he said, "relayed it."

16 MR. HENNES: Or he passed it on.

17 BY MR. BAKER:

18 Q When did you pass the letter on for review, you say
19 you assembled a team to look at this?

20 MS. BERNSTEIN: He said "relayed" in my notes.

21 MR. HENNES: That's fine.

22 BY MR. BAKER:

23 Q When, in connection with when you got it, versus
24 when Duggan gets involved, how long?

25 A I don't remember precisely, but it was, I think

1 experience at SSgA for a letter to investors, a market

2 commentary to investors, to take weeks to be finalized?

3 A To my memory, the legal group had not been involved
4 in the review of many -- market commentary, so I have nothing
5 to judge that against; however, it was my initial

6 understanding that this letter was going out soon after, you
7 know, it was my impression that the letter was close to final
8 draft when I received it the first time.

9 Q But it turned out it wasn't; is that correct?

10 A Yes, in other words it took, again whether it was
11 ten days or two weeks, I don't recall.

12 Q Okay. Who, if anyone, held up that process, I mean
13 why did it go from, you get the letter and you think it is
14 nearly final to go out, and yet it takes several weeks; why?

15 A I don't know why, other than the fact that various
16 business people were commenting on it.

17 Q Well, is what you are saying that business people's
18 edits, or comments to it, was what caused the time period to
19 stretch out, as opposed to, say, legals looking at the
20 document and holding it up?

21 A Yes.

22 Q All right. So you get the letter, some period of
23 weeks goes by before it finally goes out, I think your
24 testimony is, you are not quite sure exactly when you
25 forwarded the letter or relayed the letter to Duggan, for his

1 relatively quickly, you know, a day or two.

2 Q Okay. And how about Douglass, the same question.
3 How long between the time when you do your first, sort of
4 quick review of the letter, and when you relayed it to him?

5 A I don't remember whether I did it at the same time,
6 or I could have done it another day later, I just don't
7 remember with that specificity.

8 Q Was it early on, or near the end?

9 A Oh, sorry, sorry, it was early.

10 Q How long before the letter went out did you get
11 your initial draft and looked at it? So the letter, we think
12 goes out July 26th or 27th, how long before the July 26th or
13 27th did you first review a draft of this letter?

14 A You know, I don't remember precisely, but it was a
15 longer period than I initially thought, in other words, this
16 letter went through multiple, multiple revisions by the
17 business people.

18 Q How about by the legal people?

19 A The legal people generally reviewed, as the draft
20 changed it is, you know, my assumption that the business
21 people continued to submit drafts to the legal group.

22 Q Well, approximately how long, I mean was it days,
23 minutes, weeks?

24 A No, no, it was weeks.

Q Okay. And was that unusual, in terms of your

1 involvement, but it was pretty soon after you received it; is
2 that fair to say?

3 A Yes.

4 Q Okay. And is that the same with Douglass, again,
5 you are not sure exactly when, but it was pretty soon after
6 you did your first review of the July 27th letter that you
7 forwarded it to him, for his involvement?

8 A Yes. My memory is that I assembled the team soon
9 upon receiving the letter, so whether it was that day, the
10 next day, you know, but my response was to assemble a team.

11 Q Okay. Ciotti, is he part of the team, from the
12 get-go?

13 A That I don't remember, if he was on, you know, the
14 first time I pulled everyone together, but I know that I
15 remember that I wanted his experience as part of the legal
16 team's review.

17 Q Okay. And Fries, is that how I say it?

18 A Yes, Fries.

19 Q Did she get involved in the letter early on, in
20 terms of the timeframe of your involvement, was it soon
21 afterwards that she gets involved?

22 A Yes, that's my memory.

23 Q And is it, in fact, the case that she was involved
24 in reviewing the July 26th letter?

25 A Yes.

1 BY MS. BERNSTEIN:
 2 Q But does that refresh your recollection that he, in
 3 fact, did have comments though, whether you remember the
 4 substance of them?
 5 A Yes.
 6 BY MR. BAKER:
 7 Q I think you may have precluded my next question,
 8 but it appears that you were trying to schedule some sort of
 9 a meeting with Mr. Hunt to talk about the letter, do you see
 10 that?
 11 A Yes.
 12 Q I think you just said you don't have any
 13 independent recollection of what Mr. Hunt's comments were on
 14 the letter. Do you have any recollection of the meeting you
 15 had with Mr. Hunt about the letter, whether it even occurred,
 16 what's reference here?
 17 MR. HENNES: If you had a meeting?
 18 MR. BAKER: Right.
 19 THE WITNESS: I don't recall.
 20 MR. HENNES: Mr. Baker, a good time for a break, we
 21 have been going for about an hour and ten minutes?
 22 MR. BAKER: Sure. Let's go off the record, the
 23 time is 3:40 p.m.
 24 (A brief recess was taken.)
 25 MR. BAKER: We are back on the record at about 4:00

1 A My understanding was that this was an accomplished
 2 and well-experienced team of legal advisors, and that they
 3 would raise the issues and make changes, so that the letters
 4 were consistent with whatever rules and regulations we're
 5 subject too.
 6 Q Did you ever communicate to them that the purpose
 7 of their review was to ensure that the letters complied with
 8 the securities laws?
 9 A I had worked so closely, over the years, with Liz
 10 Fries and with Mark Duggan, that I didn't feel that there was
 11 a need to be specific as to that, because they were experts
 12 in these areas.
 13 BY MS. BARAN:
 14 Q Did you ever ask them whether they felt they had
 15 all of the facts necessary that they needed to make their
 16 determination?
 17 A I don't recall.
 18 Q Did Ms. Fries, in particular, do you know whether
 19 she had the relevant facts she needed, in order to make an
 20 adequate legal opinion?
 21 A Well, I communicated with Ms. Fries during the
 22 course of reviewing, you know, we just finished the July
 23 letter, it was also my understanding that there were -- that
 24 she was having communications with Mark Duggan and possibly
 25 others on the team, so I had confidence that she either had

1 p.m. on September 25, 2009. Mr. Hennes, will you just
 2 confirm there were no conversations of any substance between
 3 the staff and the witness, or the staff and counsel for the
 4 witness during the break?
 5 MR. HENNES: There were no such conversations.
 6 MR. BAKER: Thank you.
 7 BY MR. BAKER:
 8 Q Mr. Shames, you described earlier, I think it was
 9 your testimony with regard to the letters that you were
 10 involved in in some way, that legal did approve the letters;
 11 is that correct?
 12 A That's my memory, yes.
 13 Q Okay. What does that mean?
 14 A It means that the legal team determined that the
 15 letters met the standards, or the requirements that would
 16 need to be met.
 17 BY MS. BERNSTEIN:
 18 Q And what standards would those be?
 19 A Well, as I had mentioned earlier, I'm an ERISA and
 20 a tax lawyer by training, but, it was my understanding that I
 21 would assemble the team of securities lawyers, so I will say,
 22 generally, securities laws.
 23 Q Do you have an understanding that they understood
 24 that that was what they were supposed to be doing, when they
 25 were looking at these letters?

1 the information that she needed, or that she would have
 2 requested the information that she needed.
 3 Q In your view, did Mr. Duggan have all of the facts
 4 he needed in order to sign off on the letter?
 5 A Again, Mark Duggan had the experience and the
 6 expertise, and I had the confidence in that, that he would
 7 have undertaken what he needed to undertake, along with Ms.
 8 Fries, to provide the approval.
 9 Q Okay. And other than that, did you ever ask him,
 10 "do you feel you have all of the facts you need in order to
 11 sign off on this letter?"
 12 A I don't recall.
 13 BY MR. BAKER:
 14 Q I am going to try and do this in context. The final
 15 version, I will read to you a sentence again of the final
 16 version, the July 26 letter, which was previously marked as
 17 Exhibit 16. It just states, I read this on the record
 18 previously; "We have been seeking to reduce risk in those
 19 portfolios where we believe it is appropriate by taking
 20 advantage of liquidity in the market when it exists, and will
 21 continue to do so, while seeking to avoid putting undue
 22 pressure on asset valuations." I have asked you some
 23 questions about that, I think your testimony is, you just
 24 don't know if legal offered any advice on that, correct?
 25 A Yes, I don't recall.

1 Q And you don't recall whether legal had any facts,
2 sort of independent of whatever was being told to them in a
3 drafted letter on those matters; is that correct?

4 A Yes.

5 Q Okay. In terms of just a process issue, of getting
6 this communication out the door, was it your, what was your
7 understanding of the role of legal in reading a sentence like
8 that and approving the letter that it contains a sentence
9 like that?

10 Let me be a little more specific. Did legal have
11 to go and ask somebody whether it was accurate to say that
12 SSgA was seeking to reduce risks in those portfolios, in
13 order for it to approve this letter?

14 A Well, when I read the letter and the early drafts
15 of it, I relied upon the accuracy of the letter, because I
16 was not aware of any facts it would indicate otherwise, and I
17 think other members of the team would be able to review the
18 letter and determine, based upon the facts that they were
19 aware of, whether or not they needed to, you know, check
20 facts or anything like that.

21 Q Okay.

22 BY MS. BERNSTEIN:

23 Q Did you have an expectation of, if they needed more
24 facts, that they would go out and get them?

25 A I was confident that the team would undertake

1 whatever actions they needed to undertake, in order to sign
2 off on the letter.

3 BY MR. BAKER:

4 Q All right. From a process perspective, I want to
5 know if you can be more specific on something like this. If
6 somebody on your team, or an outside counsel that was
7 responsible for the July 26 letter, you said yourself, you
8 assembled a team of attorneys to look at the letter, correct?

9 A Yes.

10 Q Okay. If somebody on your team read this statement
11 in their review of the letter?

12 A Yes.

13 Q And they had no idea whether it was true or false,
14 they didn't know whether it was true or false, like anyone
15 else in the world or an investor would know whether it was
16 true or false, they just didn't know if SSgA was seeking to
17 reduce risk or not, would you expect that each of the members
18 of your team, both in-house and outside counsel, would do
19 anything to educate themselves about that, or would you
20 expect that they would just accept it as true?

21 A My expectation was, you know, just like when I read
22 it, in other words, that it would be the same process, that
23 they read the letter, and also based upon their knowledge of
24 the law and what's required that maybe -- and the facts that
25 they knew, and they would determine as a judgment whether or

1 not something should be checked, or whether it could be
2 accepted for what it was.

3 Q Okay. And I realize this is sort of a hypothetical
4 question, but I'm trying to base it on your process, at
5 least?

6 A Yes.

7 Q Assuming that all of the attorneys or any
8 particular attorney that you assembled to review this letter
9 didn't know any facts, one way to other, concerning the
10 statement that I read, but they were an expert in some area
11 of the law, whatever area it might be that you think Ms.

12 Fries was an expert on, or Mr. Duggan was an expert on, would
13 you expect any of those people in that scenario, not knowing
14 the facts, but being an expert on whatever they are an expert
15 on the law, would you expect that they would do anything to
16 educate themselves about the facts, or would you expect that
17 they would simply take this at face value?

18 A My expectation is that they could do or undertake
19 whatever, ask any questions that they had and if they -- if
20 they felt, because of their knowledge of the law that they
21 needed to question things, it would be my expectation that
22 they would.

23 Q And was there any guidance that you provided to
24 them on that, like, "if you have questions, ask them," any
25 guidance at all on what criteria or criterion they should

1 apply in determining whether to ask for, further question?

2 A Again, since this was outside of my general area of
3 expertise, I relied upon the fact of their experience that
4 they could and should do whatever is necessary to provide the
5 review of the letter.

6 BY MS. BERNSTEIN:

7 Q Isn't it fair to say that ultimately they're
8 relying on the business side experts for the information, for
9 the facts that are contained within the letter, the business
10 people are the ones who know?

11 A Yes. And -- yes.

12 BY MR. BAKER:

13 Q And based on your experience of working with
14 Duggan, Fries, or anyone else who worked on the July 26
15 letter, for a statement like, "we have been seeking to reduce
16 risk," would you expect any of those people would do anything
17 to check the accuracy of that?

18 A I don't recall.

19 Q You don't recall, what, exactly?

20 A You know, that when I read that, that I expected
21 them to check that.

22 Q Was that the kind of fact that you would just, "we
23 have been seeking to reduce risk in those portfolios," is
24 that the kind of fact that you would expect the attorneys
25 working under you to simply accept the business people at

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. B-02320-A

5 STATE STREET GLOBAL ADVISORS)

6

7 WITNESS: Mitchell Shames

8 PAGES: 195 through 259

9 PLACE: Securities and Exchange Commission

10 33 Arch Street

11 Boston, Massachusetts

12 DATE: Wednesday, April 28, 2010

13

14 The above-entitled matter came on for hearing, pursuant
15 to notice, at 2:00 p.m.

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24 Diversified Reporting Services, Inc.

25 (202) 467-9200

1 September you gave me a description of what you were doing
2 for employment. Has that changed at all since September '09,
3 your current employer, and what you are doing for business?

4 A No, that hasn't changed.

5 Q And I just gave you a copy of a previously marked
6 document, Exhibit 16. I don't actually have any questions
7 about that at this time. It's another document I just wanted
8 to make sure you had available to you during your testimony
9 today, because I'm going to be asking you about certain
10 letters that SSgA sent to clients in the 2007 time frame.

11 The letters are set forth in this document that
12 I'll represent in their final form, at least in template
13 fashion, so you have, for example, on the first page is a
14 letter that was sent July 26 or 27 to clients; I think these
15 are letters that we looked at in your prior testimony.

16 I'll be referring to that today as the July 26
17 letter. Again, you can review it as needed. I don't have
18 any questions on the document.

19 The other documents I'm going to be asking you
20 about is an August 2 letter, which is on Page 2, and the next
21 letter is actually the fourth letter in this document. It's
22 at Page 4 of the document. It's an August 14 letter signed
23 by Sean Flannery.

24 I don't have any questions about that right now. I
25 just wanted to make sure you had it in the stack, and we will

1 be pulling it out as we go through the testimony.

2 I just gave you another previously marked Exhibit
3 No. 678, and this is a document with Bates Nos. 11 SEC 120201
4 through 120204. It contains two e-mails on the first page
5 and an attached document on the other three pages, the last
6 three pages of the exhibit.

7 Actually, it looks like there are one, two, three
8 e-mails on the first page; the first e-mail at the bottom,
9 just describing for you here, is from Patricia Hudson to
10 Stacy Reardon, copied to several people.

11 It appears Patricia Hudson forwards that e-mail,
12 which has an attached document to it, to you on July 12,
13 2007, at 5:52 p.m. Do you see that in the middle of the
14 page?

15 A Yes.

16 Q She says, "Thanks, Mitch. Sean confirmed to me
17 this afternoon that he wanted this to be vetted by legal.
18 Nothing has gone out to clients yet. The updated version
19 refers to the updates to an earlier draft that didn't go out.
20 Best, Tricia."

21 Is this the first time that you received a draft of
22 a letter that ultimately became the July 26 letter that was
23 sent to clients of SSgA?

24 A Yes, my memory is that this is the first time that
25 I received a document concerning subprime.

1 Q And had you had any prior communication, whether it
2 be oral or anything, with Ms. Hudson before she sent this e-
3 mail to you attaching the letter?

4 A I don't recall.

5 Q Had you had any communications prior to Ms. Hudson
6 sending you this letter with anyone other than Mr. Hudson
7 about a draft client communication that State Street was
8 putting together concerning the subprime situation?

9 A Yes, I remember having a brief conversation with
10 Sean Flannery who was, who indicated that he had asked
11 Patricia to forward me a copy of a letter.

12 Q And you think that that occurred before Ms. Hudson
13 forwarded you this letter on July 12?

14 A I think so.

15 Q I think in your prior testimony you testified about
16 a conversation you had with Flannery when he first asked you
17 to look at a market commentary that had been drafted and
18 recalled that that was a brief meeting with Flannery in your
19 office.

20 Is that the same meeting you're recalling now?

21 A Yes, that I'm referring to.

22 MR. HENNES: Make sure you let him finish the
23 question.

24 BY MR. BAKER:

25 Q At this point in time -- by this point in time,

1 meaning July 12, 2007, around 5:52 p.m., when you received
2 the first draft of what becomes the July 26 client
3 communication, what was your understanding of what legal's
4 role was with regard to vetting the letter, if you will?

5 MR. HENNES: You just said the first draft. I
6 think you meant to say the first draft that he received.

7 BY MR. BAKER:

8 Q The first draft that you received. Let me restate
9 it so it's clear for the record.

10 At this point in time, about 5:52 p.m. on July 12,
11 2007, what was your understanding of what legal's role was
12 with regard to vetting the draft letter?

13 A My understanding of legal's role was that we were
14 to review the letter to see whether it raised any legal
15 issues.

16 Q Any particular legal issues, or is it just
17 generally any legal issues?

18 A I don't remember that any issues were identified
19 for us.

20 Q Had you had any discussions with anyone prior to
21 receiving the draft letter from Hudson on July 12th about
22 what legal's role would be in reviewing the draft letter?

23 A I don't recall.

24 Q Prior to receiving this draft letter on July 12,
25 had anyone provided you with facts about the subprime

EXHIBIT 5

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. B-02320

5 STATE STREET GLOBAL ADVISORS)

6

7 WITNESS: Lawrence J. Carlson

8 PAGES: 1 through 297

9 PLACE: Securities and Exchange Commission

10 33 Arch Street, Suite 2300

11 Boston, Massachusetts

12 DATE: Monday, March 16, 2009

13

14 The above-entitled matter came on for hearing, pursuant
15 to notice, at 9:42 a.m.

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24 Diversified Reporting Services, Inc.

25 (202) 467-9200

1 bottom of page 7542703 sent by you, apparently, Sunday,
 2 August 12th, to Relationship Management U.S. and consultant
 3 liaisons, and then it continues obviously on to --
 4 A Yes. That is what it looks like, yes.
 5 Q Okay. Is it accurate to say that relationship
 6 managers or client facing people could sort of opt out of
 7 sending their clients this letter?
 8 A I don't -- if I am not mistaken, I think this is
 9 one of the letters we sent via Onyx. I think this is one of
 10 the ones that we actually sent through Onyx.
 11 Q I am going to refer you to the second paragraph of
 12 your top e-mail on the page of Exhibit 367.
 13 A Yes.
 14 Q It says, "We will include your clients on this
 15 e-mail unless told specifically that we cannot for some
 16 reason."
 17 A Right. Those are non U.S. We don't have any
 18 control over the non U.S. relationship people.
 19 Q Got it. And why is that? Why don't you have any
 20 control over the non U.S. --
 21 A They have a completely different reporting
 22 structure.
 23 Q Okay. Is it fair to say that SSgA would want the
 24 same message to go to all clients regardless of where the
 25 clients were located in the world?

1 A I don't know. That was up to the people in those
 2 particular locales to decide that.
 3 Q Let's look at Page 7542704.
 4 A Okay.
 5 Q I am going to refer you to the paragraph of your
 6 e-mail that says, "So by two p.m. Monday."
 7 A Mm-hmm.
 8 Q If you want to read through that and let me know
 9 when you are done.
 10 (The witness examined the document.)
 11 A Okay. I think I understand it.
 12 Q Okay. Yes. So what is the meaning of that
 13 paragraph just so we are sure we understand?
 14 A Chris and Amish were two people that worked on
 15 gathering information from Onyx as we had received
 16 previously. And if I understand this correctly, we were not
 17 going to send to clients that had already terminated or
 18 already left us.
 19 Q Okay. So other than clients that had already
 20 terminated, the idea was that every client --
 21 A Correct.
 22 Q -- at SSgA invested in LDBF or in strategies that
 23 used LDBF were to receive the Flannery letter, with the
 24 exception of those who had already terminated. Correct?
 5 A Yes.

1 Q Okay. Thank you. I am handing you what has been
 2 marked as Commission Exhibit No. 368.
 3 A Yes.
 4 Q Commission Exhibit 368 is an e-mail from Amish
 5 Dholakia.
 6 A Close, yes. Dholakia, correct.
 7 Q Okay. And Amish is A-M-I-S-H?
 8 A Yes.
 9 Q Last name, D-H-O-L-A-K-I-A?
 10 A Yes.
 11 Q Sent Monday, August 13th, to Larry Carlson, some
 12 copies, attachments again, Fund Participants 8/1/07.
 13 A Yes.
 14 Q Does this indicate that, again, the fund
 15 participants as of 8/1/07 would be, as he says, the
 16 spreadsheet with all the updates?
 17 A Yes. That is how I read this. So clients that had
 18 terminated, yes.
 19 Q And finally, I am just going to hand you a copy of
 20 what has been previously marked as 7543120 through -- pardon
 21 me. I am going to hand you what has previously been marked
 22 as Commission Exhibit 369. The Bates stamps are 7543120
 23 through 3508.
 24 A Yes.
 25 Q And that appears to be the continuation of what was

1 marked as Commission Exhibit No. 368 and the fund
 2 participants. Is that accurate that this spreadsheet with
 3 the Bates numbers following 7543120 and on is the attachment
 4 to the e-mail that we have marked as Commission Exhibit 368?
 5 A I would guess that it would be. I mean I can't
 6 tell for sure, but it certainly seems reasonable that it
 7 would be.
 8 Q So that would be the list of people who would
 9 receive the Sean Flannery letter?
 10 A Yes.
 11 MR. O'CONNOR: Some would receive it, some wouldn't.
 12 It looks from the description of the e-mail and the
 13 attachment letter, all three tabs printed out.
 14 THE WITNESS: Yes. I don't know which tabs are
 15 there, I am not sure.
 16 MR. O'CONNOR: Yes. Okay.
 17 BY MS. BARAN:
 18 Q Let's refer back to Commission Exhibit 368 then.
 19 If we can compare what we have marked as Commission Exhibit
 20 369 with the e-mail that Amish Dholakia sent, which we have
 21 marked as Commission Exhibit 368, would that give us the list
 22 of clients who would have received the Sean Flannery letter?
 23 A Yes. I think the only thing I can't tell by this
 24 versus what is there is what tabs of the entire workbook is
 25 printed off or a specific worksheet, so I don't know by

EXHIBIT 6

1 Q The third paragraph of this letter says, starts
 2 with: Certain SSgA commingled funds. Do you see that?
 3 A Yes.
 4 Q Certain SSgA commingled funds holding interest in
 5 LDBF intend to redeem in kind their respective proportionate
 6 interests.
 7 Who made that decision that SSgA commingled funds
 8 were going to be redeemed in kind their respective
 9 proportional interest in LDBF?
 10 A I don't know who made that decision.
 11 Q Did you know about that decision prior to August 6?
 12 A I don't recall knowing about that decision.
 13 Q Did you have any role in making that decision; that
 14 is, SSgA commingled funds were going to redeem in kind their
 15 respective proportionate interests?
 16 A I don't recall any role in that decision.
 17 Q Were you informed?
 18 A I don't recall being informed with regards to that
 19 decision.
 20 Q Let me hand you what's previously been marked as
 21 Commission Exhibit 80, and just to identify, Commission
 22 Exhibit 80 has Bates stamps at the lower right from SS-SEC
 23 87629 through 87636, and for identification purposes there is
 24 an email stamp at the top of the first page indicating from
 25 Jan Adams sent Tuesday, August 14, 2007, to David Ely and

1 Dennis Dwyer, subject, Sean Flannery's letter to clients.
 2 Please review and let me know when you're ready.
 3 (The witness examined the document.)
 4 MS. BARAN: I'll just indicate for the record Celia
 5 Moore has returned.
 6 THE WITNESS: Thank you.
 7 BY MS. BARAN:
 8 Q Have you seen what we've marked as Commission
 9 Exhibit 80 before?
 10 A I don't recall seeing it, but the piece below that
 11 was sent by Larry Carlson was sent to me, and I have no
 12 reason to believe I didn't receive it.
 13 Q You're indicating the email stamp on the very
 14 second email stamp down indicates Larry Carlson sent Monday,
 15 August 13, 2007, to many, including yourself?
 16 A A large group, yes, yes.
 17 Q Who drafted the letters that we see attached to the
 18 email which are incorporated in Commission Exhibit 80?
 19 A I think there were a number of people involved in
 20 the drafting of the letter.
 21 Q Do you know who?
 22 A I know that Sean was one of them. I would have
 23 reviewed it at some point. There may have been others from
 24 client services involved in drafting the letter, and again,
 25 counsel who have looked at it and reviewed it and been

1 involved in the process.
 2 Q Okay. Did you approve or sign off on the letters
 3 before they were sent?
 4 A On the August 14 Sean Flannery letter?
 5 Q Yes.
 6 A It didn't require my sign off, but I had, I would
 7 have looked at it and thought -- I don't recall seeing any
 8 problem with it.
 9 Q Do you know, in addition to those you've
 10 identified, Mr. Flannery, yourself, client services, counsel,
 11 do you know of anyone else who even just provided comments on
 12 the letters before they were sent?
 13 A I don't know of specific people who provided
 14 specific comments.
 15 Q Do you know why this letter was sent, who made the
 16 decision to send the letter?
 17 A Again, I think it was, if it was talked about at
 18 the EMG, there was a desire to communicate to our clients
 19 about events taking place in the market.
 20 Q Was there a discussion at the EMG prior to August
 21 17, 2007, saying we need to send a letter to clients prior to
 22 the letter being sent?
 23 A I don't recall anything about letters, but
 24 communicating with clients around market events was something
 25 that was there.

1 Q Okay. Did anyone on the EMG, you know, aside from
 2 the people you've already mentioned who reviewed it, did
 3 anyone on the EMG review this letter before it was sent?
 4 A I don't know who on the EMG reviewed this before it
 5 was sent. They may or may not have been involved.
 6 (SEC Exhibit No. 480 was marked for
 7 identification.)
 8 Q Before I hand you the next exhibit, I want to refer
 9 you to a couple of more things on the email from Larry
 10 Carlson that appears on the first page of Commission Exhibit
 11 830, his last sentence on the first page. I think you're
 12 looking at the right thing. "Neither of these two letters
 13 will be sent to stable value clients, nor asset allocation
 14 and OFA clients who sold out of the strategies."
 15 Taking the date of this email, August 13, 2007, did
 16 you know before August 13, 2007, that asset allocation and
 17 OFA clients had sold out of the strategies?
 18 A As I said, I may or may not have known that. I
 19 don't recall the date. What was Marc Brown's email we looked
 20 at today?
 21 Q July 27.
 22 A It's not something I -- that would have been before
 23 August 13, but it's not something I would have been focused
 24 on.
 25 Q Do you know why the letter would not be sent to

EXHIBIT 7

EXHIBIT
14
11/18/08 CB
PENAD 800-831-6889

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Frequently Asked Questions

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Frequently Asked Questions

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EXHIBIT 8

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EXHIBIT 9

EXHIBIT

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EXHIBIT 10

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EXHIBIT
114
B-02320
12/09/08 MLS

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EXHIBIT 11

[REDACTED]

EXHIBIT
116
B-02320
12/09/08 MLS

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EXHIBIT 12

[Redacted]

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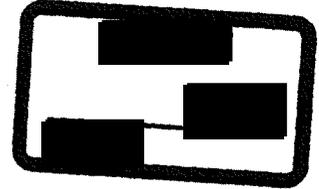
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EXHIBIT
235
B-02320
1/22/09 MLS

STATE STREET GLOBAL ADVISORS | SSgA.

EXHIBIT 13



[REDACTED]

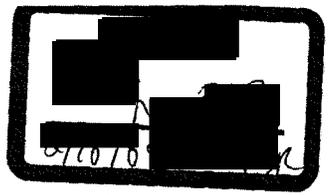
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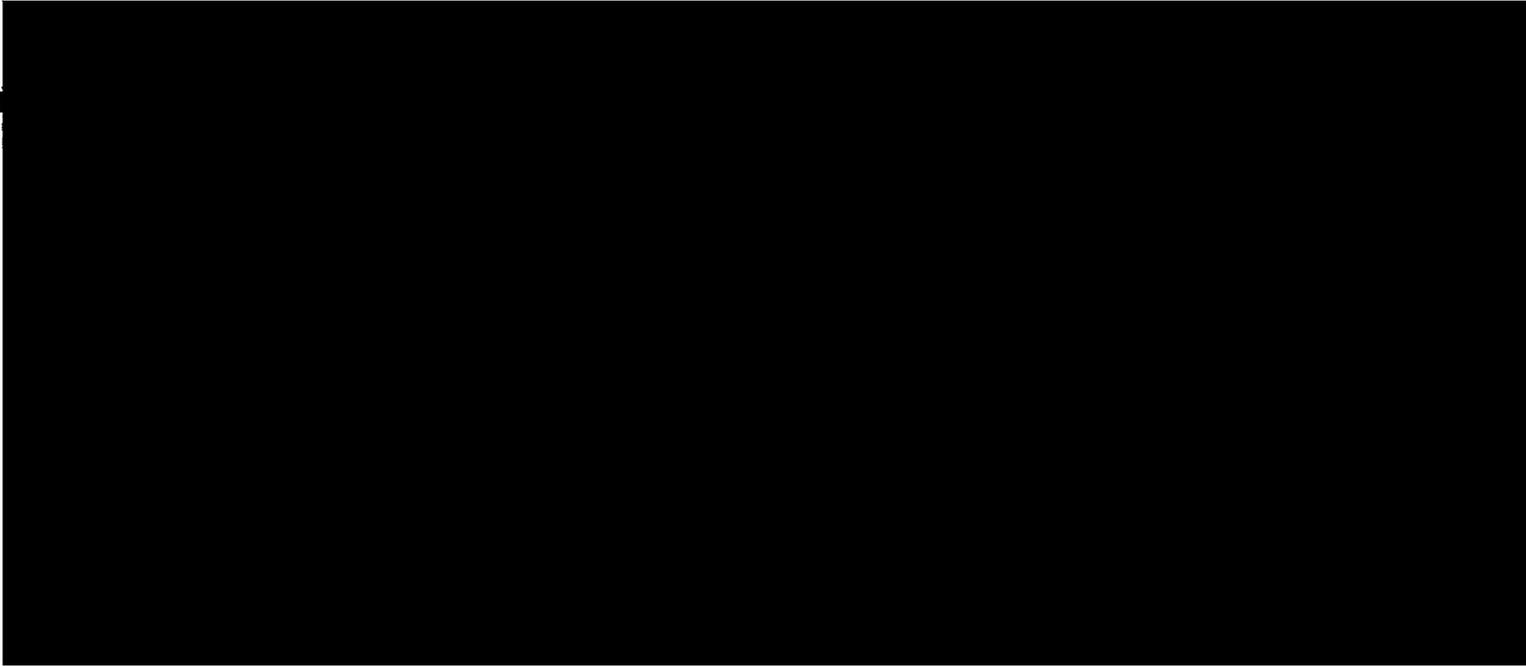
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EXHIBIT 14



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EXHIBIT 15

EXHIBIT
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B-02320
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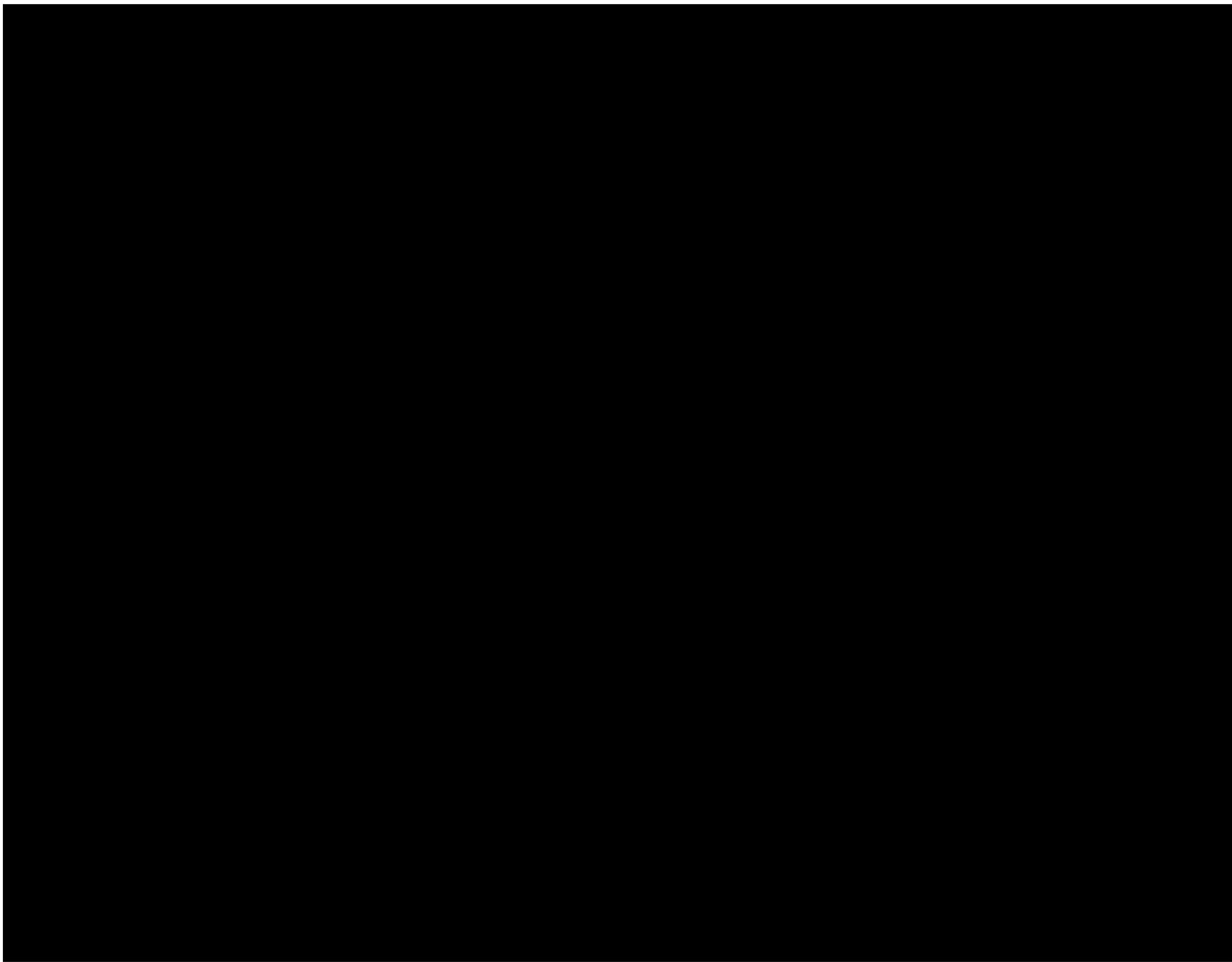
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EXHIBIT 16

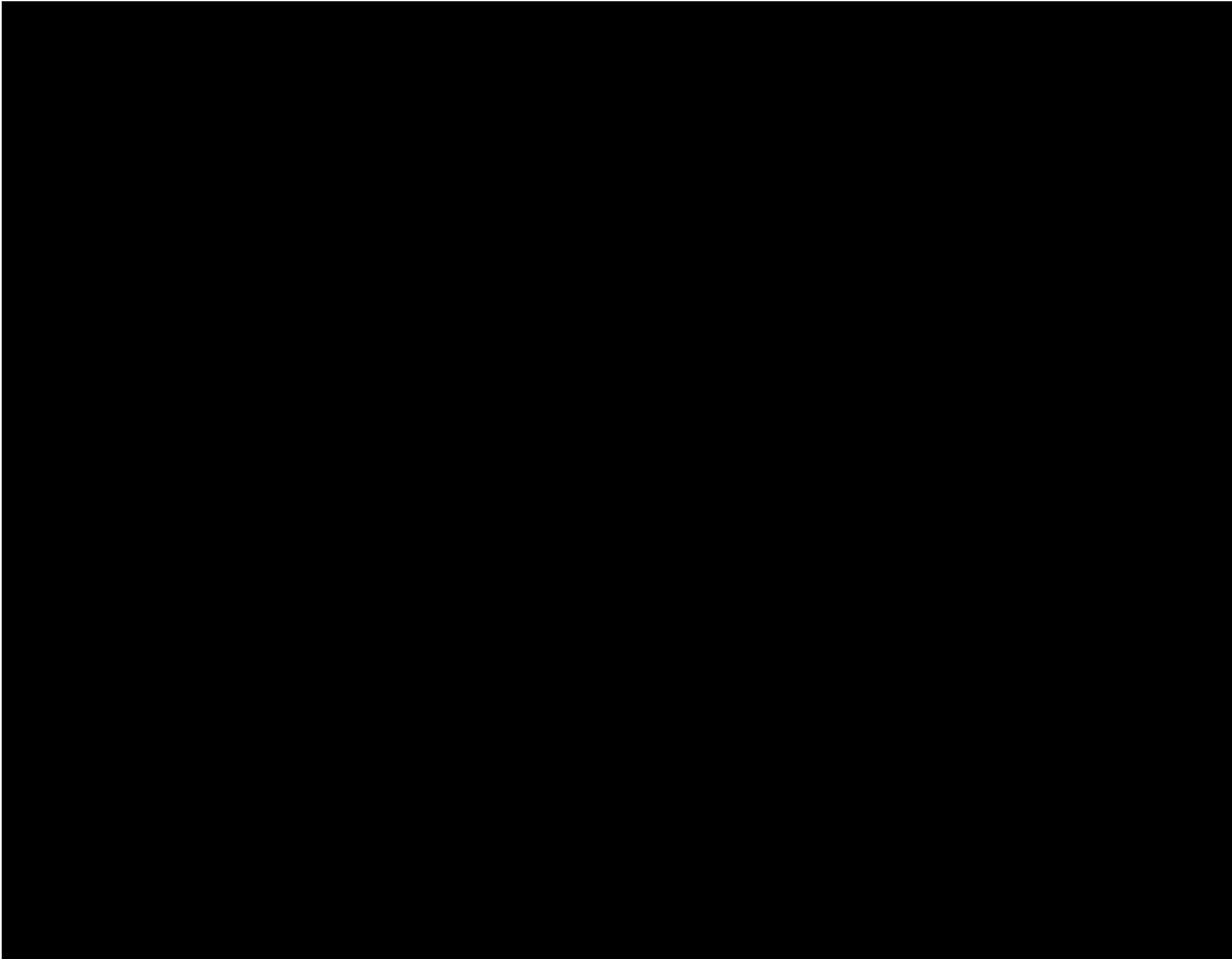
EXHIBIT
411
B-02320
3/16/09 CF

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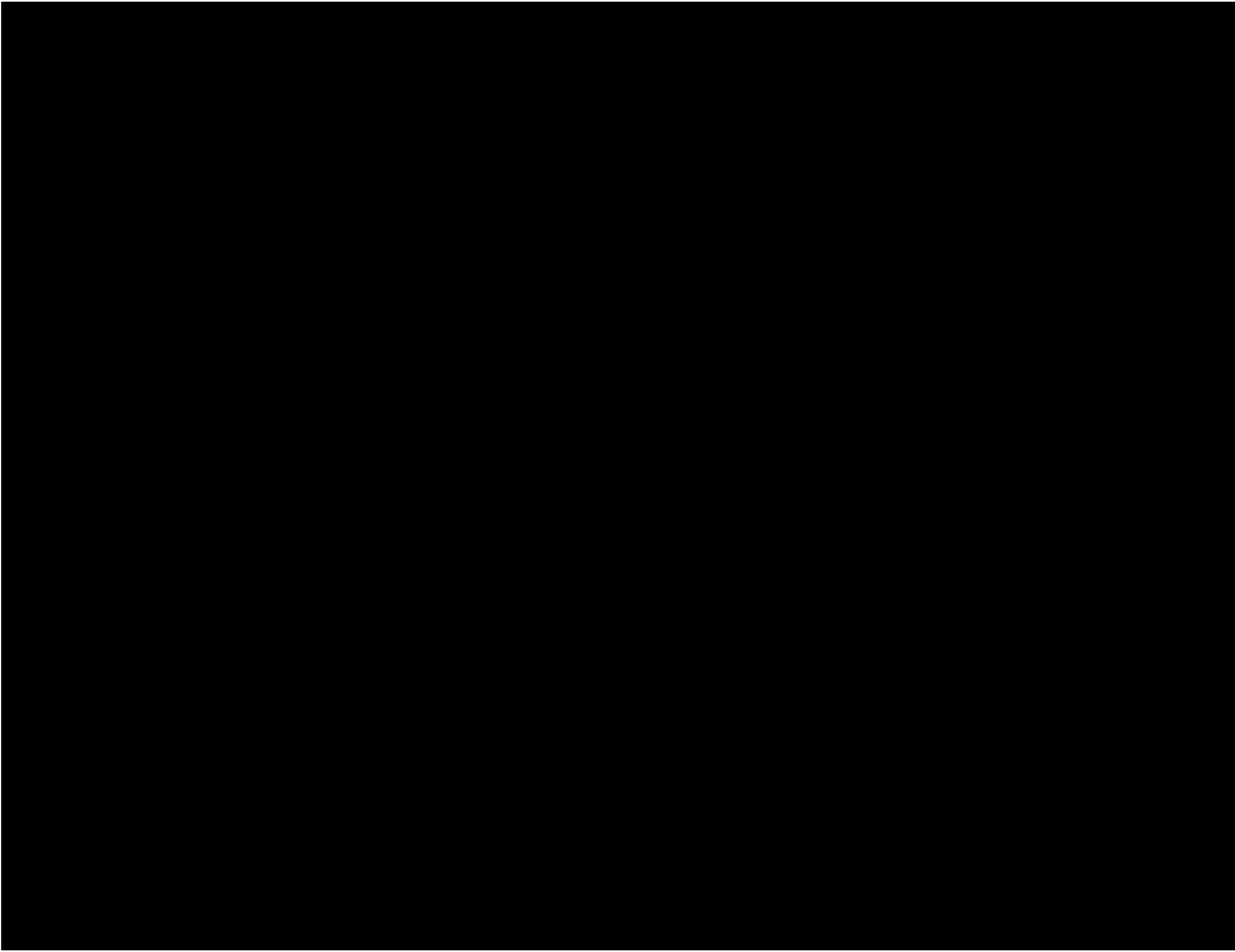














EXHIBIT 17

EXHIBIT
 412
 B-02320
 3/16/09 CF

Subprime Questions - 10/8/2007 v.1

	A	B	C	D	E	F	G	H	I	J
1	Rec.	Requestor	Type	Client	Consultant	Description	Assigned	Due Date / Time	Comments / Answer / Resolution	Status
2	8/10	Ehret	Question Part 1		Strategieon	Limited Duration Bond Strategy: allocation of the fund to the various rating categories (AAA, AA, A, BBB) per 31 May 2007, 30 June 2007, 31 July 2007 and 3 August 2007	Peter / Minh	ASAP	Sent May, June, July, August to Greg	Closed
3	8/10	Ehret	Question Part 2		Strategieon	Limited Duration Bond Strategy: spread and spread duration for each category for each of these dates	Risk / Pickett	ASAP	Sent report.	Closed
4	8/10	Ehret	Question Part 3		Strategieon	Limited Duration Bond Strategy: a performance attribution for June, July and early August 2007	Risk / Pickett	ASAP	Sent June, July and August 10 to Greg.	Closed
5	8/10	Fitzgerald	Question Part 1	Gwinett County / State Street Salary Savings / Nellie Mae / Various clients / Sartain Lanier	Wilmington Trust / Watson Wyatt / Prime Buchholz / Cambridge Associates / Prime Buchholz	Credit quality and sector breakdowns (including breaking ABS into TRR Swaps & Cash bonds) the following funds as of 6/30 and 7/31: CM29 - Wilmington Trust (client is Gwinett County), Watson Wyatt (client is State Street Salary Savings plan)		ASAP	Provided Characteristic Reports for 7/31 and 6/29	Closed
6	8/10	Fitzgerald	Question Part 2	Gwinett County / State Street Salary Savings / Nellie Mae / Various clients / Sartain Lanier	Wilmington Trust / Watson Wyatt / Prime Buchholz / Cambridge Associates / Prime Buchholz	Credit quality and sector breakdowns (including breaking ABS into TRR Swaps & Cash bonds) the following funds as of 6/30 and 7/31: CMN4 - Prime Buchholz (client is Nellie Mae)		ASAP	Provided Characteristic Reports for 7/31 and 6/29	Closed

Subprime Questions - 10/8/2007 v.1

1	A	B	C	D	E	F	G	H	I	J
	Rec.	Requestor	Type	Client	Consultant	Description	Assigned	Due Date / Time	Comments / Answer / Resolution	Status
7	8/10	Fitzgerald	Question - Part 3	Gwinett County / State Street Salary Savings / Nellie Mae / Various clients / Sartain Lanier	Wilmington Trust / Watson Wyatt / Prime Buchholz / Cambridge Associates / Prime Buchholz	Credit quality and sector breakdowns (including breaking ABS into TRR Swaps & Cash bonds) the following funds as of 6/30 and 7/31: CMZ5 - Due to commodity exposure for Cambridge Associates (many clients), Prime Buchholz (multiple clients) and Wilmington Trust (client is Sartain Lanier)		ASAP	Provided Characteristic Reports for 7/31 and 6/29	Closed
8	8/10	Fitzgerald	Question	American Red Cross		Daily Bond Market Series Fund - Class A (CMB1) they have \$29m in the fund. CMB1 owns CM29. Client has requested the following: 1) Attribution for July and Month to Date August. Broken out by credit quality for the Sub-Prime Home Equity Market positions		ASAP	ANSWERED: The perf attribution is unaudited data from the PM team. Aug MTD is as of Aug 8	Closed
9	8/13	Carlson	Question - Part 1	Teamsters Plan	Alan Biller	Current fund value	Risk / RM / PM Team / Legal	ASAP	RM pulling information from PRKS	Closed
10	8/13	Carlson	Question - Part 2	Teamsters Plan	Alan Biller	Current holdings	Risk / RM / PM Team / Legal	ASAP	Sent CMY1 holdings for July 31	Closed
11	8/13	Carlson	Question - Part 3	Teamsters Plan	Alan Biller	Amount of money that all of our (Biller's) clients have in the fund. (CHRIS - YOU CAN PROVIDE- IN FACT SHOULDNT THEY HAVE MORE...THE 2015 AND 2025?) a) Teamster Balance fund b) Teamster Income fund c) IATSE 16	Risk / RM / PM Team / Legal	ASAP	RM pulling information from PRKS	Closed
12	8/13	Carlson	Question - Part 4	Teamsters Plan	Alan Biller	Current redemption Queue	Risk / RM / PM Team / Legal	ASAP	Response in approved written FAQ on shared drive	Closed
13	8/13	Carlson	Question - Part 5	Teamsters Plan	Alan Biller	Real scenario analysis for 5%- 10%-15%-40% adverse market movements and similar range for redemption. Questions that we need to answer under these scenarios are: a) Can fund maintain its liquidity under each scenario? b) What would be leverage ratio under each scenario?	Risk / RM / PM Team / Legal	ASAP	Analysis complete, see email response for attachment	Complete

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Subprime Questions - 10/8/2007 v.1

	A	B	C	D	E	F	G	H	I	J
1	Rec.	Requestor	Type	Client	Consultant	Description	Assigned	Due Date/Time	Comments / Answer / Resolution	Status
14	8/13	Carlson	Question - Part 6	Teamsters Plan	Alan Biller	What is SSgA going to do to make up losses?	Risk / RM / PM Team / Legal	ASAP	Response in approved written FAQ on shared drive	Closed
15	8/13	Reardon (for Dacey)	Question - Part 1	Various	Yanni Partners	Some clients redeem out of the DJ-AIG Commodities CTF over the past few days. Their clients want to reconcile the dollar amounts of their redemptions to performance on the day they redeem.	Greff	ASAP	Liason discussed with client.	Closed
16	8/13	Reardon (for Dacey)	Question - Part 2	Various	Yanni Partners	Some clients redeem out of the DJ-AIG Commodities CTF over the past few days. How we are coming up with the price valuations every day, and if we utilize an independent auditor to help us price the fund.	Duggan / Janssen	ASAP	Response in approved written FAQ on shared drive	Closed
17	8/13	Flannery	Question			Several clients redeemed units on Friday with an unadjusted swap price, therefore remaining clients will bear brunt. Should LDBF ERISA and GTF be re-priced?	Johnson / IAVC / Duggan	ASAP	No action needed	Closed
18	8/13	Flannery	Task			Multipurpose risk reporting - can the risk group add the total values for credit qualities and sectors to their standard report?	Greff / Pickett	ASAP	Process in place	Closed
19	8/12	Leukel	Question - Part 1	Loyalis		At the end of June you had to my belief 37 percent in prime, roughly 22 percent AAA, 13 percent AA and 2 percent BBB. As of first day of August we have had many calls. And while you never gave concrete answers, you made some statements: a) The belief it is still money good b) You sell to get liquidity if clients get out c) If you sell you do that by selling a slice	Duggan / Pickett / PM Team / RM / Risk	ASAP	Duggan said no legal reason not to answer - business decision. Who is answering "business decisions"?	On Hold
20	8/13	Leukel	Question - Part 2	Loyalis		At the end of June you had to my belief 37 percent in prime, roughly 22 percent AAA, 13 percent AA and 2 percent BBB. As of first day of August we have had many calls. Now looking to the actual situation based on the received information, you have sold all BBB and all AA and small part AAA. How to combine this with a) money good and b) selling slice?	Duggan / Pickett / PM Team / RM / Risk	ASAP	Pickett is gathering information	On Hold
21	8/13	Leukel	Question - Part 3	Loyalis		At the end of June you had to my belief 37 percent in prime, roughly 22 percent AAA, 13 percent AA and 2 percent BBB. As of first day of August we have had many calls. Thereby there is a realized loss. What was the value of BBB and AA portfolio at end of June versus the value as of 8/13?	Duggan / Pickett / PM Team / RM / Risk	ASAP	Greff speaking to PM Team	On Hold

Subprime Questions - 10/8/2007 v.1

	A	B	C	D	E	F	G	H	I	J
1	Rec.	Requestor	Type	Client	Consultant	Description	Assigned	Due Date / Time	Comments / Answer / Resolution	Status
22	8/13	Leukei	Question - Part 4	Loyalis	-	At the end of June you had to my belief 37 percent in prime, roughly 22 percent AAA, 13 percent AA and 2 percent BBB. As of first day of August we have had many calls. What is the underperformance month to date for August till end of Friday for CTF fund?	Duggan / Pickett / PM Team / RM / Risk	ASAP	Greff speaking to Risk	On Hold
23	8/13	Leukei	Question - Part 5	Loyalis	-	At the end of June you had to my belief 37 percent in prime, roughly 22 percent AAA, 13 percent AA and 2 percent BBB. As of first day of August we have had many calls. When do you expect to have our slice of CTF put into a separate account as discussed?	Duggan / Pickett / PM Team / RM / Risk	ASAP	RM	On Hold
24	8/13	Leukei	Question - Part 6	Loyalis	-	At the end of June you had to my belief 37 percent in prime, roughly 22 percent AAA, 13 percent AA and 2 percent BBB. As of first day of August we have had many calls. Please send me the portfolio with all the holdings of the CTF as of last Friday	Duggan / Pickett / PM Team / RM / Risk	ASAP	Greff speaking to Risk	On Hold
25	8/13	Fitzgerald (for Williams)	Question	IATSE 16	Alan Biller	What % exposure to subprime did the LDBF CTF have as of Friday, Aug. 10th or latest date available?		ASAP	June, July and Aug 10 Characteristic reports provided to RM	Closed
26	8/13	Fitzgerald (for Saarinen / Beauparlant)	Question - Part 1	Mercer		written commentary on the performance shortfall including the rationale for the investment strategy in light of the market turmoil in subprime mortgages		ASAP	Answers provided to Saarinen / Beauparlant. Performance attribution reports for June and July provided.	Closed
27	8/13	Fitzgerald (for Saarinen / Beauparlant)	Question - Part 2	Mercer		attribution and what is being done to address the poor results		ASAP	Answers provided to Saarinen / Beauparlant. Performance attribution reports for June and July provided.	Closed
28	8/13	Fitzgerald (for Saarinen / Beauparlant)	Question - Part 3	Mercer		more information on the investment structure of the Limited Duration Bond Strategy (LDBS)		ASAP	Answers provided to Saarinen / Beauparlant. Performance attribution reports for June and July provided.	Closed
29	8/13	Fitzgerald (for Saarinen / Beauparlant)	Question - Part 4	Mercer		LDBS historical performance track record		ASAP	Answers provided to Saarinen / Beauparlant. Performance attribution reports for June and July provided.	Closed

Subprime Questions - 10/8/2007 v.1

1	A	B	C	D	E	F	G	H	I	J
	Rec.	Requestor	Type	Client	Consultant	Description	Assigned	Due Date / Time	Comments / Answer / Resolution	Status
30	8/13	Fitzgerald (for Saarinen / Beauparlant)	Question - Part 5	Mercer		market information on the movement of swap spreads and their impact on the LDBS		ASAP	Answers provided to Saarinen / Beauparlant. Performance attribution reports for June and July provided.	Closed
31	8/13	Fitzgerald (for Saarinen / Beauparlant)	Question - Part 6	Mercer		any other collateral that SSGA has used with clients to explain the performance shortfall - specifically data and graphs to demonstrate the unusual and unprecedented nature of the volatility		ASAP	Answers provided to Saarinen / Beauparlant. Performance attribution reports for June and July provided.	Closed
32	8/13	Fitzgerald (for Flinn)	Question	Prudential		June & July 2007 portfolio characteristics (including sector weights) for the Intermediated Bond Fund		ASAP	June and July Characteristic reports provided to RM	Closed
33	8/13	Fitzgerald (for Sullivan)	Question	Memorial Sloan Kettering	Cambridge	Asking for an accounting of what counterparty risk is associated with the MSKCC's account. The only area of potential exposure is the Prime Money Market Fund. What counterparty exposure is in the fund?		ASAP	Conference call answered outstanding questions	Closed
34	8/13	Fitzgerald (for Guy)	Question Part 1	Omaha Public Power		Historical portfolio weights for CM29, with particular interest in the ABS portfolio weights historically (5yrs if possible).		ASAP	June, July and Aug 10 Characteristic Available on shared drive. Factsheets should be sent by RM for historical info.	Closed
35	8/13	Fitzgerald (for Guy)	Question Part 2	Omaha Public Power		They also said, (and I believe Patrick's group is working on this question) "You need to explain to us that you were comfortable with a 65% weight to ABS in this fund when the ABS weight in the Lehman Agg is 1%. This fund is not supposed to take that level of risk".	Para	ASAP	Client meeting answered outstanding questions	Closed
36	8/13	Fitzgerald (for Sullivan)	Question	Xerox		Breakdown of the assets for LDBF CTF into the following categories: a) by issuer b) by type of underlying asset (e.g., credit cards, prime mortgages, subprime mortgages, etc.) b) vintage (meaning what year was the deal done and what year were the assets originated) c) priority in the cash flow waterfall (e.g., first cash flow out, second, third...last) d) an assessment by SSGA of the individual assets/issuers likely to incur losses and how steep could those losses be		ASAP	Conference call answered outstanding questions	Closed
37	8/14	Fitzgerald (for Tremblay)	Question	State of Alaska	Callan	Performance Attribution Analysis versus benchmark as of July 31 st for Active Gov't Credit Fund (CM72). Exposures by sectors, quality including the composition of home equity ABS exposure (AAA, AA, etc)		ASAP	July Characteristic reports provided to RM	Closed

Subprime Questions - 10/8/2007 v.1

1	A	B	C	D	E	F	G	H	I	J
	Rec.	Requestor	Type	Client	Consultant	Description	Assigned	Due Date / Time	Comments / Answer / Resolution	Status
38	8/14	Fitzgerald (for DeGiacomo)	Question	Houston Police (largest participant in LDBF ERISA)	Hammond (new and not part of this process at this point)	Craig needs to provide Houston Police with characteristics of the fund including leverage levels.	Craig De Giacomo	ASAP	July Characteristic reports provided to RM	Closed
39	8/14	Fitzgerald (for O'Hara)	Question	Choate Rosemary Hall	Prime	One of our clients, Choate Rosemary Hall, was invested in our Enhanced DJ AIG Commodities Index (liquidated 1/4 today). They also have the following strategies with us: Long US Treasury Index (CM2P), TIPS CTF (CMY5), US Treasury 1-3 Year Index CTF (CM2Q), US Treasury 3-10 Year Index CTF (CM2R), and US Treasury Index (CRH3CTF) separately managed. They are holding an Investment Committee meeting on Wed and want to confirm these strategies a) do not use leverage b) do not have "subprime" exposure c) do not use futures/derivatives	Shelley O'Hara	ASAP	Verbal answers from respective PMs provided to client	Closed
40	8/14	Fitzgerald (for Dacey)	Question	Major League Baseball Players	IFS	Detailed asset allocation of the Short Term Bond Fund as of March 30, June 30 and July 31, 2007	Paul	ASAP	May, June and July Characteristic reports provided to RM.	Closed
41	8/14	Fitzgerald (for Brown)	Question - Part 1	Newspaper and Periodical Drivers, IATSE Local #16	Alan Biller & Assoc.	Loss attribution - do we have an attribution report that shows how various sectors or positions contributed to the losses to date: AAA, AA, A, BBB, Swaps, Treasuries, etc.?		ASAP	Performance Attribution Reports available on shared drive.	Closed
42	8/14	Fitzgerald (for Brown)	Question - Part 2	Newspaper and Periodical Drivers, IATSE Local #16	Alan Biller & Assoc.	Do the AAA, AA, A, BBB Lehman Indexes have ticker symbols that a person can use to access via say Bloomberg		ASAP	Approved answer sent.	Closed
43	8/14	Fitzgerald (for Brown)	Question - Part 3	Newspaper and Periodical Drivers, IATSE Local #16	Alan Biller & Assoc.	Have the PMs performed any scenario analysis to see what triggers or stresses could cause the portfolio to collapse? If not, why not? Page 6 of 115		ASAP	Approved answer sent.	Closed

FLAN0045B

Subprime Questions - 10/8/2007 v.1

	A	B	C	D	E	F	G	H	I	J
1	Rec.	Requestor	Type	Client	Consultant	Description	Assigned	Due Date / Time	Comments / Answer / Resolution	Status
44	8/14	Fitzgerald (for Brown)	Question - Part 4	Newspaper and Periodical Drivers, IATSE Local #16	Alan Biller & Assoc	Can we outline what the redemption experience has been over the past few weeks for the LDBF (ERISA and CTF) and the Dow AIG Fund (assets and accounts)?	Reigel	ASAP	Not answering at this time	Closed
45	8/14	Fitzgerald (for Brown)	Question - Part 5	Newspaper and Periodical Drivers, IATSE Local #16	Alan Biller & Assoc	Can we describe how the costs have been assigned or absorbed by the CTF?	Para...	ASAP	Approved answer sent.	Closed
46	8/14	Tom Anderson in IBC	Question	Various Citistreet		Attached is some commentary on the SSgA Yield Plus Fund, SSgA Bond Market Fund, and SSgA Intermediate Fund. Tom Anderson wrote this based on discussions with Barbara Shegog and Frank Gianatasio. This is intended for internal use by IBC's sales team in response to questions. We would also provide it to Citistreet to help their internal people respond to questions.		ASAP	Talking points approved by legal	Closed
47	8/14	Fitzgerald (for Schiller)	Question - Part 1	Catholic Healthcare	Slocum	I saw that ABS CP got whacked on Friday. Should I be concerned about anything with ILR? (Steve Meier question?)		ASAP	Sent ILR official post from SSgA Funds	Closed
48	8/14	Fitzgerald (for Schiller)	Question - Part 2	Catholic Healthcare	Slocum	Could we get CML9 holdings?	Dave Schiller	ASAP	Holdings provided	Closed
49	8/14	Fitzgerald (for Parker)	Question	Nellie Mae	Prime Buchholtz	Please confirm your pricing policy and provide detail on how Nellie Mae can be comfortable that they will receive "fair pricing" in a liquidation.	George Parker	ASAP	Response in approved written FAQ on shared drive	Closed
50	8/14	Fitzgerald	Question - Part 1	Sisters of Charity of the Blessed	Dimeo Sneider	An explanation of the positions that are negatively impacting performance. How were they viewed by management to add Alpha above benchmark?	Para/Legal	ASAP	Approved answer sent.	Closed
51	8/14	Fitzgerald	Question - Part 2	Sisters of Charity of the Blessed	Dimeo Sneider	What is the current portfolio structure and where do they stand with the positions?		ASAP	Aug. 10 Characteristic Report available on the shared drive	Closed

Subprime Questions - 10/8/2007 v.1

	A	B	C	D	E	F	G	H	I	J
1	Rec.	Requestor	Type	Client	Consultant	Description	Assigned	Due Date / Time	Comments / Answer / Resolution	Status
52	8/14	Fitzgerald	Question - Part 3	Sisters of Charity of the Blessed	Dimeo Sneider	How are they dealing with the securities today or, in other words, what is current portfolio strategy in light of these security holdings?	O'Hara	ASAP	Approved answer sent.	Closed
53	8/14	Fitzgerald	Question - Part 4	Sisters of Charity of the Blessed	Dimeo Sneider	It may also help to understand their historical experience holding such positions. Did they recently take stakes in subprime mortgages or have they done so historically and at what levels?	Para	ASAP	Approved answer sent.	Closed
54	8/14	Fitzgerald (for Parker)	Question	State Street Salary Savings Plan	Watson Wyatt	CM29 (Bond Market Fund ERISA) Weighted Average Maturity as of 6/30/07		ASAP	Provided additional characteristics	Closed
55	8/14	Fitzgerald (for Saarnen)	Question	Mercer HR		Need characteristics of these Funds for a monthly report that Reporting (Joe Dougherty) has to send to Mercer HR Consulting.		ASAP	Characteristic Reports available on the shared drive	Closed
56	8/14	Fitzgerald (for Armstrong)	Question - Part 1	Wolf & Co.		Has there been a timeline put together that shows how quickly the prices deteriorated. Ed has an asset allocation client, Wolf and Co, which was in CM03 and was wondering why we didn't make the recommendation before 7/31. This would help with an explanation.	Para/Legal	ASAP	Approved answer sent.	Closed
57	8/14	Fitzgerald (for Armstrong)	Question - Part 2	Wolf & Co.		Is the 7/31 attribution information available?		ASAP	July Performance Attribution Report Available on shared drive.	Closed
58	8/14	Fitzgerald (for Saarnen)	Question	Apogee	Through Kevin McGrath at Citistreet	The following question came in from the consultant on the Apogee plan after the conference call with Jim Hopkins to discuss the performance on the Active Bond Fund - CMB1. What does the current list of holders look like? Not names but, are there mostly 401ks, pensions, etc and what percentage of the fund do they own?		ASAP	Unless we provide the same info to all clients in a fund, we should not provide this information. This could be seen as providing material information to only one client. For example, it could cause a client to pull out now "before everyone else does."	Closed
59	8/14	Fitzgerald	Question	Oklahoma Firefighters	Asset Consulting Group	Please see attached questionnaire.		ASAP	Completed Questionnaire	Closed
60	8/14	Fitzgerald	Question	Town of Arlington	Wilshire Pittsburgh	Regarding the bond fund, please provide more detail on which segments of the ABX indices you had exposure to. Please provide the performance of the AAA, AA, etc segments of the index that the portfolio is invested in over the past three months.		ASAP	July Performance Characteristic and Attribution Report Available on shared drive.	Closed

FLAN00460

Subprime Questions - 10/8/2007 v.1

	A	B	C	D	E	F	G	H	I	J
1	Rec.	Requestor	Type	Client	Consultant	Description	Assigned	Due Date / Time	Comments / Answer / Resolution	Status
61	8/14	Ramon Maronilla and Janice Wu (Hong Kong office)	Question - Part 1	Hospital Authority (HA) Pension Fund Scheme		How has our assessment of fundamentals changes YTD? We've kept saying that we believe our exposures are money good, and that the market has been mainly driven by liquidity and leverage issues. Yet, there's been a continuous stream of data indicating rises in defaults and delinquencies, and further anticipated spikes due to coupon resets. Clients also have access to research such as the attached by JPM that indicates that even at a price in the 40's, the ABX BBB 06-02 is still rich. They also project substantial losses for BBB's even under conservative HPA assumptions and potential losses from A as well.		ASAP	Conference call answered outstanding questions	Closed
62	8/14	Ramon Maronilla and Janice Wu (Hong Kong office)	Question - Part 2	Hospital Authority (HA) Pension Fund Scheme		Further to question 1, we need to produce a document similar to the attached by JPM to help clients understand the basis for our fundamental views and the assumptions that underlie them. Clients also want to know where pricing and spreads should be based on our assessment of fundamentals. Is this something we can produce?		ASAP	Conference call answered outstanding questions	Closed
63	8/14	Ramon Maronilla and Janice Wu (Hong Kong office)	Question - Part 3	Hospital Authority (HA) Pension Fund Scheme		Have there been write-downs in any of our positions to date? If not, how much do we expect?		ASAP	Conference call answered outstanding questions	Closed
64	8/14	Fitzgerald	Question - Part 1			Fed Request - please have Mike O'Hara generate a list of all portfolios that hold ABS (including all registered funds)	Paul	ASAP	Provided to C. Blume	Closed
65	8/14	Fitzgerald (for Meier)	Question - Part 2			Fed Request - please complete the above for all cash funds.	Steve Meier	ASAP	Compliance Coordinateing	Closed
66	8/14	Fitzgerald (for Meier/Greff)	Question - Part 3			Fed Request - compare the two lists and verify that there are no portfolios transitioning or recently transitioned, that may not appear on the list and double check that everything is included. Send the completed list to Chris Blume	Steve Meier and Paul Greff	ASAP	Compliance Coordinateing	Closed
67	8/14	Fitzgerald (for Blume)	Question - Part 4			Fed Request - (per Otello) please cross-check to ensure we have captured all portfolios with ABS exposure	Chris Blume	ASAP	Compliance Coordinateing	Closed
68	8/14	Fitzgerald	Question - Part 5			Fed Request - please confirm that the Fed doesn't intend for mortgage pass-throughs to be included (they have been confused with other ABS at points in the past).	Margaret	ASAP	Compliance Coordinateing	Closed

FLAND0461

EXHIBIT 18

EXHIBIT
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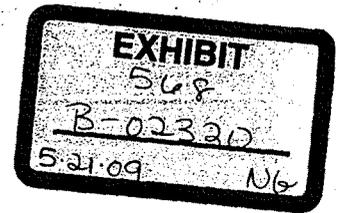
[REDACTED]

EXHIBIT 19

EXHIBIT
558
JAs 5/19/09

[REDACTED]

EXHIBIT 20



From: Brown, Marc
Sent: Friday, July 27, 2007 7:00 PM
To: Roberts, Arlene C
Cc: Grove, Hannah M
Subject: FW: Update on the Sub prime Market and Saga's Active Fixed Income Strategies
Attachments: CLIENT VERSION_Update on the Subprime Market and SSgAs Active Fixed Income Strategies_.htm.zip; CONSULTANT VERSION_Update on the Subprime Market and SSgAs Active Fixed Income Strategies_CONSULTANT VERSION.htm.zip; Participants with Primary_Secondary_RM_Consultant Info_7-27-07.xls.zip

As promised – here is the letter – Q&A to follow. Marc.

From: South, Chris
Sent: Thursday, July 26, 2007 5:42 PM
To: Non-US Sales & Marketing; US Sales & Marketing - SSGA
Cc: Ehret, Greg; Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Subject: Update on the Subprime Market and SSgA's Active Fixed Income Strategies

Hello Everyone,

This afternoon we sent a notification to clients and consultants updating them on the Subprime Market and SSgA's Fixed Income Strategies. This communication needed to be sent as a group with all clients and consultants receiving it at the same time.

As discussed, a FAQ will be distributed later today for internal use only. Below, please find a unique list of individuals who received this mailing (tabs highlighted in green). The red tab shows a list of clients that did not have a primary contact listed in Onyx (and did not receive the notification) and the other tabs just show a list of all participants affected. Please note that each individual highlighted in purple did not receive the mailing as they did not have an e-mail address entered in Onyx.

Thanks,

Chris

<<CLIENT VERSION_Update on the Subprime Market and SSgAs Active Fixed Income Strategies_.htm.zip>> <<CONSULTANT VERSION_Update on the Subprime Market and SSgAs Active Fixed Income Strategies_CONSULTANT VERSION.htm.zip>>
<<Participants with Primary_Secondary_RM_Consultant Info_7-27-07.xls.zip>>

Christopher M. South

State Street Global Advisors

Phone: (617) 664-2039

Fax: (617) 664-6012

chris_south@ssga.com

This email and any files transmitted with it are confidential to State Street Global Advisors (SSGA) and are intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error, please reply to this message and let the sender know. Thank you.

4/9/2008

From: "State Street Global Advisors" <SSgARelationshipManagementCommunication@ssga.com>@STATESTREET
Sent: Thursday, July 26, 2007 4:10 PM
To: South, Chris
Subject: Update on the Subprime Market and SSgA's Active Fixed Income Strategies



[REDACTED]

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[REDACTED]

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EXHIBIT 21

EXHIBIT 22

In recent months, and particularly last month, our active bond strategies and other strategies which employ our Limited Duration Bond fund as an enhanced cash or portable alpha vehicle have generated negative returns that are unprecedented in our 30 year history as a fixed income manager. These returns are both disappointing and distressing to many of our clients as they are to all of us here at SSgA.

The Limited Duration Bond fund strategy dates back to March of 2002 (check that) and produced consistent positive returns over LIBOR with very low volatility, beating the benchmark for X out of X quarters inception to date. The provides these returns without taking either interest rate risk or unsecured credit risk, thereby differentiating it from other short-term strategies. Instead it is focuses on securitized assets with a high average credit quality, primarily home equity loans. We focused on diversifying those assets by credit quality, small position sizes (each less than X%) and geography. We built a strong team of portfolio managers and credit- and surveillance analysts and supported that with industry-leading commercial and proprietary technology.

In recent years the strategy focused increasingly on housing-related assets in light of the unattractive incremental return opportunities resulting from tight yield spreads on credit card, student loan and other asset-backed securities.

As 2006 drew to a close concerns rose regarding the prospect of millions of mortgage borrowers bearing the burden of higher mortgage payments in an environment of short term rates significantly higher than they were just a couple of years ago. This caused us to tighten our own analytical standards on securities we considered for purchasing in the portfolio.

Against this backdrop of weakening fundamentals some hedge funds, looking for a means of shorting the US housing market, focused on specific and fairly liquid derivative contracts to set shorts. This sent a shock through the home equity market which the press had renamed the "sub-prime" market. Derivative markets sold off sharply in February, chiefly in the lower-rated investment grade instruments; cash bonds were relatively unscathed as were the higher-rated AAA and AA contracts. Within a couple of weeks the market regained its footing and contract prices rose substantially.

In late May and the beginning of June, selling pressure once again came to bear on these markets. At this point, however, balance sheets of investment banks were heavy with loans from the surge in LBOs and hundreds of billions in asset-backed securities housed for the burgeoning pipeline of CDO deals in progress but not yet brought to market. As selling pressure mounted in the derivative

market prices gapped sharply lower and risk managers apportioned much higher risks to these sub-prime trades. Lower prices and higher risks created new waves of deleveraging in the market while investment banks with bloated balance sheets and little appetite for increased exposure provided fewer—and sharply lower—bids to the sellers. The already distressed market segment was then further shaken by the failure of a number of hedge funds and the resulting pressure of further waves of forced sales into the liquidity-starved market. To make matters worse, the funds that had closed down included funds that were very active in the market segment and ones that would have likely stepped in to snap up the assets flooding the street at bargain-basement prices.

In July the ratings agencies, relatively absent up to this point, moved in and slashed ratings across literally hundreds of bonds. Both the scope and the magnitude of the downgrades and watch-listings were unprecedented even during the bond market crisis in 1998. These moves set off new waves of selling first in the lower rated bonds and then creeping all of the way up to the highest quality AAA bonds. If investment banks were reluctant to bid the bonds before they became even less willing and a full-fledged meltdown of the segment followed, with contagion spreading to both high-yield and investment grade corporates, emerging market bonds and ultimately the reverberations have been felt in the equity market. The crisis is further validated by the sharp drop in Treasury yield, the classic "flight to quality" move we have witnessed in every severe market dislocation for decades.

The situation is extreme and difficult to manage. While we believe that the subprime markets clearly convey far greater risk than they have historically we feel that forced selling in this chaotic and illiquid market is unwise. Even if mortgage delinquencies soar beyond our expectations we would expect significantly higher values for our sub-prime holdings. While recent events may have repriced the risk of these assets for the foreseeable future and it is unlikely that they will retrace to values at the turn of the year we believe that liquidity will slowly re-enter the market and the segment will regain its footing. While we will continue to liquidate assets for our clients when they demand it, our advice is to hold the positions for now.

Each of us involved in managing these strategies is deeply distressed by this turn of events. We take great pride in the specialized expertise we have built and are keenly aware of the trust you have placed in us to manage these portfolios. We understand that we have disappointed you and are pained by that.

Most of us have endured other market crises in '87, '93, '98 and '01. We know as investors that rogue waves hit the markets from time to time and when that happens we have to stay calm and constantly reassess the environment. We also know that we have to stay focused on making the best and most informed decisions in these portfolios. We will continue to draw on the considerable

expertise of our team to evaluate and re-evaluate risks and opportunities in this challenging market.

We acknowledge and regret the distress these events and our performance may have caused you and thank you for the opportunity to re-establish your confidence in us.

EXHIBIT 23

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CONFIDENTIAL - D E F

EXHIBIT 24

From: Duggan, Mark [Mark_Duggan@ssga.com]
Sent: Sunday, August 12, 2007 9:53 PM
To: Flannery, Sean
Subject: Fw: Here is the letter

Attachments: SPF Bond letter v4_lostclient.doc.zip; SPF Bond letter v4_lostclient.doc.zip



SPF Bond letter
v4_lostclient....



SPF Bond letter
v4_lostclient....

How many times do we have to sign off???

-----Original Message-----

From: Carlson, Larry
To: Duggan, Mark; Flannery, Sean
CC: Reardon, Staci; Fitzgerald, Maureen
Sent: Sun Aug 12 17:46:27 2007
Subject: RE: Here is the letter

Ok...one last look at the drafts:

1) for clients that still have assets with <<SPF Bond letter v4_lostclient.doc.zip>>
us:

<<SPF Bond letter v4_lostclient.doc.zip>>

2) for clients t <<SPF Bond letter v4_lostclient.doc.zip>> hat have terminated us
<<SPF Bond letter v4_lostclient.doc.zip>>

Please see greeting and sign off.

Thanks.

Larry

Larry Carlson
Managing Director
U.S. Relationship Management
State Street Global Advisors
State Street Financial Center
One Lincoln Street, 33rd Floor
Boston, MA 02111-2900
Tel: 617 664-5611
Fax: 617 664-6861
larry_carlson@ssga.com

Please visit us at: <http://www.ssga.com> Securities offered through State Street Global Markets, LLC, member FINRA, SIPC State Street Global Markets, LLC has a regulatory surveillance system designed to monitor and record incoming and outgoing email communications, including attachments.

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From: Duggan, Mark
Sent: Sunday, August 12, 2007 5:38 PM
To: Carlson, Larry; Flannery, Sean

EXHIBIT 25

From: Brown, Marc
Sent: Friday, August 10, 2007 3:03 PM
To: Flannery, Sean; Grove, Hannah M; Duggan, Mark; Hunt, William W
Cc: Carlson, Larry; Reardon, Staci; Fitzgerald, Maureen; Kelly, Gerard; Ehret, Greg; Sturino, Otello R
Subject: RE: Client Communication

Redacted:
Privilege - Staci/Larry – go ahead and organize the send. Marc.

From: Flannery, Sean
Sent: Friday, August 10, 2007 8:02 AM
To: Grove, Hannah M; Duggan, Mark; Hunt, William W; Brown, Marc
Subject: RE: Client Communication
Importance: High

All-

Redacted:
Privilege

Here is Hannah's version with my edit.
<< File: SPF Bond letter v3.doc.zip >>

Sean P. Flannery
Exec Vice President and Chief Investment Officer, Americas
Sean_Flannery@ssga.com

From: Grove, Hannah M
Sent: Friday, August 10, 2007 6:21 AM
To: Duggan, Mark; Hunt, William W; Flannery, Sean; Brown, Marc
Subject: RE: Client Communication

Mark,

I have highlighted some suggested edits for consideration.

Redacted:
Privilege

Redacted:
Privilege

Best,

Hannah
<< File: SPF Bond letter v2.doc.zip >>

From: Duggan, Mark
Sent: Thursday, August 09, 2007 6:53 PM
To: Grove, Hannah M; Hunt, William W; Flannery, Sean; Brown, Marc
Subject: Client Communication

Hannah:

Attached is a close to final draft of a letter we propose to send to all clients affected by the Limited Duration Bond Funds.
[Redacted: Privilege] We are trying to send it out Friday. Thanks.

Mark

<< File: SPF Bond letter v1.doc.zip >>

From: Brown, Marc
Sent: Friday, August 10, 2007 3:03 PM
To: Flannery, Sean; Grove, Hannah M; Duggan, Mark; Hunt, William W
Cc: Carlson, Larry; Reardon, Staci; Fitzgerald, Maureen; Kelly, Gerard; Ehret, Greg; Sturino, Otello R
Subject: RE: Client Communication

I'm good with this version – Staci/Larry – go ahead and organize the send. Marc.

From: Flannery, Sean
Sent: Friday, August 10, 2007 8:02 AM
To: Grove, Hannah M; Duggan, Mark; Hunt, William W; Brown, Marc
Subject: RE: Client Communication
Importance: High

All-

I think Hannah's edits are spot on. I have only one edit and that is to replace reduction (which replaced meltdown) with contraction as I believe reduction might convey a lowering of exposure instead of the negative market impact to which we refer.

I also think that Hannah's conclusion sets a much better tone and is essentially what we were looking for but unable to express last night.

Here is Hannah's version with my edit.

<< File: SPF Bond letter v3.doc.zip >>

Sean P. Flannery
Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Grove, Hannah M
Sent: Friday, August 10, 2007 6:21 AM
To: Duggan, Mark; Hunt, William W; Flannery, Sean; Brown, Marc
Subject: RE: Client Communication

Mark,

I have highlighted some suggested edits for consideration. Did we communicate with these clients, either via letter or verbally, in July?

Best,

Hannah

<< File: SPF Bond letter v2.doc.zip >>

From: Duggan, Mark
Sent: Thursday, August 09, 2007 6:53 PM
To: Grove, Hannah M; Hunt, William W; Flannery, Sean; Brown, Marc
Subject: Client Communication



Hannah:

Attached is a close to final draft of a letter we propose to send to all clients affected by the Limited Duration Bond Funds. We are all OK with it, but wanted your thoughts. We are trying to send it out Friday. Thanks.

Mark

<< File: SPF Bond letter v1.doc.zip >>

EXHIBIT 26

[REDACTED]

EXHIBIT 27

From: Mitch_Shames@ssga.com
Sent: Friday, July 13, 2007 3:43 PM
To: Patricia_Hudson@ssga.com
Cc: Adele_Kohler@ssga.com; Larry_Carlson@ssga.com; Maureen_Fitzgerald@ssga.com;
Staci_Reardon@ssga.com; sean_flannery@ssga.com
Subject: Re: legal vetting of the subprime client letter

I've taken a quick look at the letter and I'm asking some of the other lawyers in our group who are closer to some of the products than I am, to also review it. We are meeting monday morning, so we'll have any changes to you at that time.

MHS

Patricia
Hudson/USA/State
Street@GISG

07/12/2007 06:03
PM

To
Staci Reardon/USA/StateStreet@GISG,
Larry Carlson/USA/StateStreet@GISG,
Maureen
Fitzgerald/USA/StateStreet@StateStr
eet

cc

Adele
Kohler/USA/StateStreet@StateStreet,
Mitch
Shames/USA/StateStreet@StateStreet
Subject
legal vetting of the subprime
client letter

Friends,

Sean F. confirmed this afternoon that he did want the client letter vetted by legal before it goes out. Mitch Shames has kindly agreed to review it and get back to us tomorrow.

Best,

Patricia

EXHIBIT 28

From: Mitch Shames
Sent: Tuesday, July 17, 2007 4:41 PM
To: sean_flannery@ssga.com
Subject: SubPrime -- Client Letter

Sean --- just a quick follow-up. I'm still "processing" some of our discussion earlier, as it relates to the proposed letter. I want to catch up with Mark Duggan and run some things by him. We'll be able to get back to you by mid-afternoon. There may be some additional comments. I know that I said earlier that I was "all set", I just need to confirm a couple of things.

MHS

EXHIBIT 29

-

From: Kohler, Adele [Adele_Kohler@ssga.com]
Sent: Tuesday, July 31, 2007 11:20 PM
To: Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Flannery, John; Brown, Marc
Subject: Client Letter for Month-end Performance - Draft
Attachments: Subprime Update 20070731 v2.doc.zip

<<Subprime Update 20070731 v2.doc.zip>>

Please see the draft of the client letter for tomorrow. I will be out tomorrow and Thursday for a mandatory training session but will be in touch via blackberry and can potentially return to the office if needed.

Mitch please take a look and communicate any concerns to Nick Mavro and Larry Carlson as they will run with this tomorrow.

Adele Kohler, CFA

Senior Managing Director

Product Development and Product Engineering

Phone 617.664.6096

adele_kohler@ssga.com

1/21/2008

SS-SEC 119624

Dear XX,

We would like to provide you with an update regarding impact of problems in the subprime mortgage market on SSgA's fixed income strategies.

Recap of Recent Market Events

Beginning in late 2006 and continuing into 2007, defaults on subprime loans increased as so-called "risky" borrowers began to struggle to make payments as their loans reset at higher rates. A rash of subprime mortgage foreclosures occurred and several major subprime mortgage lenders filed for bankruptcy. As these events unfolded, speculative investors seized upon negative reports in the media and began using the triple B and triple B minus ABX Indices as a means of expressing negative views (i.e. shorting) on the US housing market. (This index is a basket Credit Default Swaps on 20 large securitizations in a particular credit rating and represents one of the few options for expressing views on subprime mortgages through an exchange traded vehicle.) A combination of thin volume and one-way hedge fund activity led to extreme market volatility and illiquidity in these exposures.

Markets were further rattled in June of this year when news of problems in two Bear Stearns hedge funds caused Wall Street creditors to cease collateral - primarily of mortgage-backed securities. Their attempts to liquidate these hedge fund assets put new pressure on asset values and credit spreads in the market.

Most recently in July, the announcement by Moody's and Standard and Poor's to consider downgrading \$12 billion worth of securities backed by subprime mortgages triggered a significant and sustained unwinding of leverage and sales of securities.

Impact on SSgA's Portfolios

These events and the subsequent downward pressure on valuations have resulted in varying degrees of underperformance in several of SSgA's fixed income strategies. Most notably, the Limited Duration Bond Fund has experienced significant performance shortfall due to exposure to the triple B ABX index in the first half of the year and more pronounced underperformance as spread widening has moved up the capital structure to triple and double A rated securities secured by subprime mortgages. Other active fixed income strategies have been affected as well as a result of holding units in the Limited Duration Bond Fund or due to other active positions affected by the aforementioned market events. Finally, SSgA manages strategies outside of the fixed income department for which Limited Duration Bond Fund is used as an alpha source. These strategies have also underperformed.

The specific impact on your portfolios is as follows:

You are invested in funds a, b, c. Preliminary and unaudited performance results through July are _____. **Relationship Manager to take large table include only the relevant return results for their client.**

These paragraphs in blue to be used only for clients in these strategies.

Dow Jones AIG Strategy

The Dow Jones Commodity Index strategy invests in futures and total return swaps to achieve exposure to the 19 commodities futures in the index. Residual cash is invested in the Limited Duration Bond Fund, which employs a relative value approach to identifying opportunistic investments in the short and intermediate sectors of the market. The strategy invests in triple B through triple A securities and has an average quality of AA. The fund has experienced significant performance shortfall due to its exposure to the triple B ABX index in the early part of 2007 and the subsequent impact on higher quality capital structures including double and triple A rated securities. The preliminary and unaudited performance results through July 31st are as follows:

US PALMS

The cash vehicle utilized by our US Pooled Asset Liability Matching Solution (PALMS) is an enhanced US Dollar 3 Month LIBOR strategy. This enhanced strategy has discretion to allocate dynamically between the Limited Duration Bond Fund and the Short Term Investment Fund (STIF). While this enhanced strategy is currently 100% invested in the STIF fund, at times the strategy has allocated up to 70% to the Limited Duration Bond Fund. The allocation has declined over time and averaged approximately 40% during the second quarter of 2007. As a result of its exposure to LDBF, the US PALMS strategy has underperformed its custom swaps benchmark. The preliminary and unaudited performance results through July 31st are as follows:

Equities Plus Strategy

The Equities Plus strategy invests in futures and total return swaps to achieve exposure to the S&P 500 index. Residual cash is invested in the Limited Duration Bond Fund, which employs a relative value approach to identifying opportunistic investments in the short and intermediate sectors of the market. The strategy invests in triple B through triple A securities and has an average quality of AA. The fund has experienced significant performance shortfall due to its exposure to the triple B ABX index in the early part of 2007 and the subsequent impact on higher quality capital structures including double and triple A rated securities. The preliminary and unaudited performance results through July 31st are as follows:

Actions Taken

While we believe that events over the past several months have been largely the result of liquidity and leverage issues, versus long-term fundamentals, we are also aware that the downdraft in valuations have had a significant impact on the risk profile of our portfolios and thus we have taken steps to reduce risk across the affected portfolios. Within the Limited Duration Bond Fund we have reduced exposure to a significant portion of triple B securities, we have sold a large amount of our triple A cash positions and will be reducing additional triple A exposure as total return swaps roll off at month end. These actions will simultaneously serve to reduce risk in other SSgA strategies that hold units of the Limited Duration Bond Fund.

We will continue to keep you informed during this very fluid market environment. Please do not hesitate to call me should you have additional questions or concerns.

EXHIBIT 30

From: Flannery, John [Sean_Flannery@ssga.com]
Sent: Wednesday, August 01, 2007 11:39 AM
To: Kohler, Adele; Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Brown, Marc
Subject: RE: Client Letter for Month-end Performance - Draft

All-

See my suggested edits below. The comments on the PLAMS part needs to be verified.

Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Kohler, Adele
Sent: Tuesday, July 31, 2007 7:20 PM
To: Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Flannery, John; Brown, Marc
Subject: Client Letter for Month-end Performance - Draft

<< File: Subprime Update 20070731 v2.doc.zip >>

Please see the draft of the client letter for tomorrow. I will be out tomorrow and Thursday for a mandatory training session but will be in touch via blackberry and can potentially return to the office if needed.

Mitch please take a look and communicate any concerns to Nick Mavro and Larry Carlson as they will run with this tomorrow.

Adele Kohler, CFA

Senior Managing Director

Product Development and Product Engineering

Phone 617.664.6096

adele_kohler@ssga.com

1/21/2008

SS-SEC 103835

EXHIBIT 31

-

From: Flannery, John [Sean_Flannery@ssga.com]
Sent: Wednesday, August 01, 2007 11:53 AM
To: Kohler, Adele; Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Brown, Marc
Subject: RE: Client Letter for Month-end Performance - Draft
Importance: High
Attachments: Subprime Update 20070731 v3.doc.zip

Sorry-

I forgot to include the doc.

<<Subprime Update 20070731 v3.doc.zip>>

Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Kohler, Adele
Sent: Tuesday, July 31, 2007 7:20 PM
To: Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Flannery, John; Brown, Marc
Subject: Client Letter for Month-end Performance - Draft

<< File: Subprime Update 20070731 v2.doc.zip >>

Please see the draft of the client letter for tomorrow. I will be out tomorrow and Thursday for a mandatory training session but will be in touch via blackberry and can potentially return to the office if needed.

Mitch please take a look and communicate any concerns to Nick Mavro and Larry Carlson as they will run with this tomorrow.

Adele Kohler, CFA

Senior Managing Director

Product Development and Product Engineering

Phone 617.664.6096

adele_kohler@ssga.com

1/19/2008

SS-SEC 119619

Dear XX,

We would like to provide you with an update regarding impact of problems in the subprime mortgage market on SSgA's fixed income strategies.

Recap of Recent Market Events

Beginning in late 2006 and continuing into 2007, delinquencies on subprime loans increased as so-called "risky" borrowers began to struggle to make payments as their loans reset at higher rates. A rash of subprime mortgage foreclosures occurred and several major subprime mortgage lenders filed for bankruptcy. As these events unfolded, speculative investors seized upon negative reports in the media and began using the triple B and triple B minus ABX Indices as a means of expressing negative views (i.e. shorting) on the US housing market. (This index is a basket Credit Default Swaps on 20 large securitizations in a particular credit rating and represents one of the few options for expressing views on subprime mortgages). A combination of thin volume and one-way hedge fund activity led to extreme market volatility and illiquidity in these exposures.

Deleted: defaults

Deleted: Through an exchange traded vehicle.

Markets were further rattled in June of this year when news of problems in two Bear Stearns hedge funds caused Wall Street creditors to cease collateral - primarily of mortgage-backed securities. Their attempts to liquidate these hedge fund assets put new pressure on asset values and credit spreads in the market.

Most recently in July, the announcement by Moody's and Standard and Poor's to consider downgrading \$12 billion worth of securities backed by subprime mortgages triggered a significant and sustained unwinding of leverage and sales of securities.

Impact on SSgA's Portfolios

These events and the subsequent downward pressure on valuations have resulted in varying degrees of underperformance in several of SSgA's fixed income strategies. Most notably, the Limited Duration Bond Fund has experienced significant performance shortfall due to exposure to the triple B ABX index in the first half of the year and more pronounced underperformance as spread widening has moved up the capital structure to triple and double A rated securities secured by subprime mortgages. Other active fixed income strategies have been affected as well as a result of holding units in the Limited Duration Bond Fund or due to other active positions affected by the aforementioned market events. Finally, SSgA manages strategies outside of the fixed income department for which Limited Duration Bond Fund is used as an alpha source. These strategies have also underperformed.

The specific impact on your portfolios is as follows:

You are invested in funds a, b, c. Preliminary and unaudited performance results through July are _____. Relationship Manager to take large table include only the relevant return results for their client.

These paragraphs in blue to be used only for clients in these strategies.

Dow Jones AIG Strategy

The Dow Jones Commodity Index strategy invests in futures and total return swaps to achieve exposure to the 19 commodities futures in the index. Residual cash is invested in the Limited Duration Bond Fund, which employs a relative value approach to identifying opportunistic investments in the short and intermediate sectors of the market. The strategy invests in triple B through triple A securities and has an average quality of AA. The fund has experienced significant performance shortfall due to its exposure to the triple B ABX index in the early part of 2007 and the subsequent impact on higher quality capital structures including double and triple A rated securities. The preliminary and unaudited performance results through July 31st are as follows:

US PALMS

The cash vehicle utilized by our US Pooled Asset Liability Matching Solution (PALMS) is an enhanced US Dollar 3 Month LIBOR strategy. This enhanced strategy has discretion to allocate dynamically between the Limited Duration Bond Fund and the Short Term Investment Fund (STIF). While this enhanced strategy is currently 100% invested in the STIF fund, at times the strategy has allocated up to ~~****check this—my understanding is that the funds held 30%, not 70****~~70% to the Limited Duration Bond Fund. The allocation has declined over time and averaged approximately 40% during the second quarter of 2007. As a result of its exposure to LDBF, the US PALMS strategy has underperformed its custom swaps benchmark. The preliminary and unaudited performance results through July 31st are as follows:

Equities Plus Strategy

The Equities Plus strategy invests in futures and total return swaps to achieve exposure to the S&P 500 index. Residual cash is invested in the Limited Duration Bond Fund, which employs a relative value approach to identifying opportunistic investments in the short and intermediate sectors of the market. The strategy invests in triple B through triple A securities and has an average quality of AA. The fund has experienced significant performance shortfall due to its exposure to the triple B ABX index in the early part of 2007 and the subsequent impact on higher quality capital structures including double and triple A rated securities. The preliminary and unaudited performance results through July 31st are as follows:

Actions Taken

While we believe that events over the past several months have indicate some deterioration in longer-term fundamentals, we believe price action has been dominated by the unwinding of leverage in a market segment with sharply reduced liquidity. Additionally, the downdraft in valuations has had a significant impact on the risk profile of our portfolios, prompting us to take steps to reduce risk across the affected portfolios. Within the Limited Duration Bond Fund we have reduced exposure to a significant portion of triple B securities, we have sold a large amount of our triple A cash positions and additional triple A exposure as some total return swaps rolled off at month end. These actions, simultaneously serve to reduce risk in other SSgA strategies that hold units of the Limited Duration Bond Fund.

We will continue to keep you informed during this very fluid market environment. Please do not hesitate to call me should you have additional questions or concerns.

Deleted: been largely the result of liquidity and leverage issues, versus long-term fundamentals, we are also aware that
Deleted: have
Deleted: and thus we have taken
Deleted: will be reducing
Deleted: will

EXHIBIT 32

—

From: Carlson, Larry [Larry_Carlson@ssga.com]
Sent: Wednesday, August 01, 2007 12:00 PM
To: US Sales & Marketing - SSGA; Non-US Sales & Marketing; Adams, Jan; Ross, James; Kohler, Adele; Wands, Michael; Hopkins, James; Zielinski, David; Shegog, Barbara; Ehret, Greg; Reilly, Bernard; Yamamoto, Koji; Wang, Sheau-Yien; Goodlad, Rob; Edgar, Bruce; Sabourin, Denis; Fally, Benoit; Lakhani, Kanesh; Bossi, Josef; Esswein, Klaus; Echiffre, Jean; Bang, Carl
Cc: Brown, Marc; Flannery, John; Johnson, Shawn; Shames, Mitchell
Subject: Fixed Income Update - Where We Are

Good Morning:

We are in the process of finalizing a letter that will be customized and emailed by each US Relationship Manager with the goal of having it letter ready and sent today..... the latest tomorrow.

The first part of the letter will address the markets and performance for July – then each RM will need to customize the remainder of the letter by inserting a paragraph on the Fund(s) in question as well as strategy specific performance.

A few things need to happen first:

- Legal will confirm that the letter is good to send
- We will be running holdings reports of all affected Funds
- Contacts will be pulled from Onyx – primary and secondary and consultant. People need to look at these as soon as they are ready and make sure that 1) all your affected clients are included – get back to Chris if they are not; 2) if a Team Member is out, then the Relationship Manager for each team should work with the Team Leader to make sure that all clients are covered
- RM's will need to decide what contacts to send it to and inform the consultant liaison for each client
- Emails need to be sent from the individual RM so that we don't run the risk of losing the email in a Spam filter.
- All emails need to be kept and logged into Onyx

Other reminders:

- Continue to input communications into Onyx and send feedback to Tracy Cirigliano (suggest putting your comments in an e-mail to Tracy and then copy/paste the e-mail into Onyx)

A challenging time...but we will get through it with everyone's cooperation.

Larry

.....

Larry Carlson

Managing Director

U.S. Relationship Management

State Street Global Advisors

1/19/2008

State Street Financial Center

One Lincoln Street, 33rd Floor

Boston, MA 02111-2900

Tel: 617 664-5611

Fax: 617 664-6861

larry_carlson@ssga.com

Please visit us at:

<http://www.ssga.com>

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1/19/2008

SS-SEC 103812

EXHIBIT 33

—
From: Wands, Michael [Michael_Wands@ssga.com]
Sent: Wednesday, August 01, 2007 12:09 PM
To: Flannery, John; Kohler, Adele; Shames, Mitchell; Reardon, Staci; Hopkins, James; Carlson, Larry; Mavro, Nicholas
Cc: Brown, Marc
Subject: RE: Client Letter for Month-end Performance - Draft
Attachments: Subprime Update 20070731 v4.doc.zip

I made some edits...

<<Subprime Update 20070731 v4.doc.zip>>

From: Flannery, John
Sent: Wednesday, August 01, 2007 7:53 AM
To: Kohler, Adele; Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Brown, Marc
Subject: RE: Client Letter for Month-end Performance - Draft
Importance: High

Sorry-

I forgot to include the doc.

<< File: Subprime Update 20070731 v3.doc.zip >>

Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Kohler, Adele
Sent: Tuesday, July 31, 2007 7:20 PM
To: Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Flannery, John; Brown, Marc
Subject: Client Letter for Month-end Performance - Draft

<< File: Subprime Update 20070731 v2.doc.zip >>

Please see the draft of the client letter for tomorrow. I will be out tomorrow and Thursday for a mandatory training session but will be in touch via blackberry and can potentially return to the office if needed.

Mitch please take a look and communicate any concerns to Nick Mavro and Larry Carlson as they will run with this tomorrow.

Adele Kohler, CFA

Senior Managing Director

Product Development and Product Engineering

1/19/2008

Phone 617 664 6096

adele_kohler@ssga.com

1/19/2008

SS-SEC 103618

EXHIBIT 34

From: Nelson, Margaret [Margaret_Nelson@ssga.com]
Sent: Thursday, August 02, 2007 5:23 PM
To: Hopkins, James
Subject: did you draft or review this client communication?
Attachments: Subprime Update (SSgA Legal).doc.zip

Hi Jim – I received the draft client communication. I am assuming you drafted, reviewed, etc. Please confirm. Thanks.

Margaret

From: Shea, Elizabeth
Sent: Thursday, August 02, 2007 1:16 PM
To: Nelson, Margaret
Subject: FW: Index Note

Please see below.

Thanks, Liz

Elizabeth A. Shea, CPA

Vice President & Senior Compliance Officer

State Street Global Advisors

Compliance & Risk Management

Phone (617) 664-5497

Fax (617) 664-5313

elizabeth_shea@ssga.com

From: Luster, Jodi
Sent: Thursday, August 02, 2007 12:24 PM
To: Shea, Elizabeth
Subject: RE: Index Note

Liz,

Would you mind taking a quick look at the performance paragraph? See page two.

Thank you,

Jodi <<Subprime Update (SSgA Legal).doc.zip>>

From: Shea, Elizabeth
Sent: Thursday, August 02, 2007 12:05 PM
To: Luster, Jodi
Subject: Index Note

Jodi:

Please see below.

1/21/2008

The index performance figures are calculated in U.S. dollars and reported on a gross basis. Fees, including but not limited to the advisory fee, transaction and custody charges, would reduce the return. The index returns reflect all items of income, gain and loss and the reinvestment of dividends and other income. **Note that if index is foreign, for example FTSE, we need to discuss whether or not international taxes are withheld.**

Insert description of particular index and required intellectual property language of index provider. SSgA uses reasonable efforts to obtain information from sources which it believes to be reliable; however, SSgA makes no representation that the [index] performance information is accurate, reliable or complete.

Thanks, Liz

Elizabeth A. Shea, CPA

Vice President & Senior Compliance Officer

State Street Global Advisors

Compliance & Risk Management

Phone (617) 664-5497

Fax (617) 664-5313

elizabeth_shea@ssga.com

1/21/2008

SS-SEC 119628

DRAFT

August 2, 2007

[INSERT SALUATION]:

We would like to take this opportunity to provide you with further information regarding the impact the problems in the subprime mortgage market have had on several of SSgA's active fixed income and active derivative-based strategies.

Recap of Recent Market Events

Beginning in late 2006 and continuing into 2007, delinquencies on subprime mortgage loans increased as credit blemished borrowers began to struggle to make payments as their mortgage loans reset at higher rates. As a result, a rash of subprime mortgage foreclosures occurred and several major subprime mortgage lenders filed for bankruptcy. As these events unfolded, speculative investors seized upon negative reports in the media and began shorting securities and other financial instruments based on the ABX Indices as a means of expressing their negative views of the US housing market. The ABX Indices represent swaps whose returns are derived from underlying credit default swaps of the 20 representative subprime mortgage securitizations issued in the United States over a 6 month timeframe. These swaps are based on the underlying deal tranches segregated by credit quality. A combination of thin volume and largely one-way hedge fund trading activity led to illiquidity and extreme market volatility in securities and other financial instruments based upon the ABX Indices.

The subprime mortgage market further deteriorated in June and July of this year. In June, widely-publicized news of problems in two hedge funds caused Wall Street creditors to seize collateral, including large pools of mortgage-backed securities. The creditors' attempts to liquidate these mortgage-backed securities placed added pressure on asset values and credit spreads in the subprime mortgage market. In July, the downgrading and watch listing by Moody's and Standard and Poor's of securities secured by subprime mortgages triggered a significant and sustained unwinding of leverage and sales of securities.

Impact on SSgA's Portfolios

These market events and the subsequent downward pressure on valuations in the subprime mortgage market have resulted in varying degrees of negative performance in several of SSgA's active fixed income strategies and active derivative-based strategies. Most notably, the Limited Duration Bond Strategy has experienced significant negative performance due to its exposure to the ABX Indices. The Limited Duration Bond Strategy experienced negative performance in the first quarter of 2007 as a result of technical pressures (hedge fund selling) and spread widening in BBB-rated securities secured by subprime mortgages. The Limited Duration Bond Strategy experienced even more pronounced negative performance in the second quarter of 2007 as spread widening moved up the capital structure to AAA and AA-rated securities secured by subprime mortgages. Other active fixed income and active derivative-based strategies have been affected to varying degrees by the problems in the subprime mortgage market as a result of having exposure to the Limited Duration Bond Strategy or due to other active positions affected by the aforementioned market events.

The impact of the problems in the subprime mortgage market has had the following impact on your investments with SSgA:

DRAFT

[If your Client is invested in either the: (a) Enhanced Dow Jones-AIG Commodities Futures Strategy, (b) US Pooled Asset Liability Matching Solution (PALMS) or (c) Equities Plus Strategy insert the applicable paragraph(s) here.]

[Enhanced Dow Jones-AIG Commodities Futures Strategy

The Enhanced Dow Jones-AIG Commodities Futures Strategy utilizes futures and total return swaps to gain exposure to the 19 commodity futures contracts in the 5 major commodity groups that comprise the DJ-AIG Commodity Index. The collateral pool is invested in the Limited Duration Bond Strategy. The Enhanced Dow Jones-AIG Commodities Futures Strategy has experienced significant negative performance primarily due to the performance of the underlying collateral pool which is invested in the Limited Duration Bond Strategy.]

[US Pooled Asset Liability Matching Solution (PALMS)

The collateral pool for our US PALMS is invested in an enhanced US Dollar 3 Month LIBOR strategy. This enhanced strategy has discretion to allocate dynamically between the Limited Duration Bond Strategy and the Short Term Investment Fund (STIF). While this enhanced strategy is currently 100% invested in the STIF fund, at times the strategy has allocated up to 70% of cash collateral to the Limited Duration Bond Strategy. The allocation has declined over time and averaged approximately 40% during the second quarter of 2007. As a result of its exposure to the Limited Duration Bond Fund Strategy, the US PALMS strategy has underperformed its custom swaps benchmark.]

[Equities Plus Strategy

The Equities Plus strategy invests in futures and total return swaps to achieve exposure to the S&P 500 index. The collateral pool is invested in the Limited Duration Bond Strategy. The Equities Plus Strategy has experienced significant negative performance primarily due to the performance of the underlying collateral pool which is invested in the Limited Duration Bond Strategy.]

The [INSERT FUND NAME] has returned [INSERT YTD FUND PERFORMANCE] as of the end of July 2007 versus the [INSERT APPLICABLE BENCHMARK] which has returned [INSERT BENCHMARK YTD PERFORMANCE] as of the end of July. These performance returns are preliminary and unaudited. The index performance figures are calculated in U.S. dollars and reported on a gross basis. Fees, including but not limited to the advisory fee, transaction and custody charges, would reduce the return. The index returns reflect all items of income, gain and loss and the reinvestment of dividends and other income. SSgA uses reasonable efforts to obtain information from sources which it believes to be reliable; however, SSgA makes no representation that the [INSERT NAME OF BENCHMARK] performance information is accurate, reliable or complete. Past performance is no guarantee of future results. This performance information is being provided solely for the private use by SSgA clients and is not intended for public dissemination.

Actions Taken

We believe that what has occurred in the subprime mortgage market to date this year has been more driven by liquidity and leverage issues than long term fundamentals. Additionally, the downdraft in valuations has had a significant impact on the risk profile of our portfolios, prompting us to take steps to seek to reduce risk across the affected portfolios. To date, in the Limited Duration Bond Strategy, we have reduced a significant portion of our BBB-rated securities and we have sold a significant amount of our AAA-rated cash positions. Additionally, AAA-rated exposure has been reduced as some total return swaps rolled off at month end. The actions we have taken in the Limited Duration Bond Strategy will simultaneously seek to reduce

DRAFT

risk in other SSgA active fixed income and active derivative-based strategies have been affected to varying degrees by the problems in the subprime mortgage market as a result of having exposure to the Limited Duration Bond Strategy.

SSgA prides itself on its outstanding client service and client communications. While these events may be unsettling, our experience investment team has weather other storms in the past. Please do not hesitate to call me should you have additional questions or concerns, especially during this fluctuating market environment.

[INSERT SIGNATURE]

EXHIBIT 35

From: Fries, Elizabeth Shea [efries@goodwinprocter.com]
Sent: Thursday, August 02, 2007 10:49 AM
To: Luster, Jodi
Cc: Shames, Mitchell
Subject: Subprime Update 20070731 v3 (legal080107).doc
Attachments: Subprime Update 20070731 v3 (legal080107).doc

<<Subprime Update 20070731 v3 (legal080107).doc>> Jodi: I think it looks good, and have noted just a few thoughts. One thing we did not discuss yesterday is that we should be certain this is exclusively targeted at investors with products that have a NAV based on fair market value. Presumably Stable Value is not affected by price action, and products such as CDOs have probably not realized "losses" at this stage. Please do not hesitate to call if you would like to discuss. Best -Liz

Elizabeth Shea Fries
Goodwin Procter LLP
Exchange Place
Boston, MA 02109
t: 617.570.1559
f: 617.523.1231
m: 617.721.4662
efries@goodwinprocter.com

***** IRS CIRCULAR 230

DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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EXHIBIT 36

From: Shames, Mitchell
Sent: Wednesday, August 01, 2007 12:38 PM
To: Carlson, Larry
Subject: RE: Fixed Income Update - Where We Are

Larry –

Please make sure that I have the most recent draft. Note, no more changes after my review -- or, if changes are made, I need to get a copy.

Thanks.

Mitch

From: Carlson, Larry
Sent: Wednesday, August 01, 2007 8:00 AM
To: US Sales & Marketing - SSGA; Non-US Sales & Marketing; Adams, Jan; Ross, James; Kohler, Adele; Wands, Michael; Hopkins, James; Zielinski, David; Shegog, Barbara; Ehret, Greg; Reilly, Bernard; Yamamoto, Koji; Wang, Sheau-Yien; Goodlad, Rob; Edgar, Bruce; Sabourin, Denis; Fally, Benoit; Lakhani, Kanesh; Bossi, Josef; Esswein, Klaus; Echiffre, Jean; Bang, Carl
Cc: Brown, Marc; Flannery, John; Johnson, Shawn; Shames, Mitchell
Subject: Fixed Income Update - Where We Are

Good Morning:

We are in the process of finalizing a letter that will be customized and emailed by each US Relationship Manager with the goal of having it letter ready and sent today..... the latest tomorrow.

The first part of the letter will address the markets and performance for July – then each RM will need to customize the remainder of the letter by inserting a paragraph on the Fund(s) in question as well as strategy specific performance.

A few things need to happen first:

- Legal will confirm that the letter is good to send
- We will be running holdings reports of all affected Funds
- Contacts will be pulled from Onyx – primary and secondary and consultant. People need to look at these as soon as they are ready and make sure that 1) all your affected clients are included – get back to Chris if they are not; 2) if a Team Member is out, then the Relationship Manager for each team should work with the Team Leader to make sure that all clients are covered
- RM's will need to decide what contacts to send it to and inform the consultant liaison for each client
- Emails need to be sent from the individual RM so that we don't run the risk of losing the email in a Spam filter.
- All emails need to be kept and logged into Onyx

Other reminders:

- Continue to input communications into Onyx and send feedback to Tracy Cirigliano (suggest putting your comments in an e-mail to Tracy and then copy/paste the e-mail into Onyx)

A challenging time...but we will get through it with everyone's cooperation.

Larry

.....

Larry Carlson
Managing Director
U.S. Relationship Management

State Street Global Advisors
State Street Financial Center
One Lincoln Street, 33rd Floor
Boston, MA 02111-2900
Tel: 617 664-5611
Fax: 617 664-6861
larry_carlson@ssga.com

Please visit us at:
<http://www.ssga.com>

Securities offered through State Street Global Markets, LLC, member NASD, SIPC.

State Street Global Markets, LLC, has a regulatory surveillance system designed to monitor and record incoming and outgoing e-mail communications, including attachments.

This e-mail and files transmitted with it are confidential to State Street Global Advisors (SSgA) and are intended solely for the use of the individuals or entity to whom they are addressed. If you have received this e-mail in error, please reply to this message and let the sender know.

EXHIBIT 37

From: Cullinane, Charles
Sent: Thursday, August 02, 2007 3:54 PM
To: Luster, Jodi
Subject: Subprime Letter (Draft)

Attachments: Subprime Update (SSgA Legal).doc.zip

Jodi,

Can you take a read through, insert the additional disclosure language you got from Compliance and then send to Larry, Nick and Vince?

Thanks,
Charlie



Subprime Update
(SSgA Legal).d...

DRAFT

August 2, 2007

[INSERT SALUATION]:

We would like to take this opportunity to provide you with further information regarding the impact the problems in the subprime mortgage market have had on several of SSgA's active fixed income and active derivative-based strategies.

Recap of Recent Market Events

Beginning in late 2006 and continuing into 2007, delinquencies on subprime mortgage loans increased as credit blemished borrowers began to struggle to make payments as their mortgage loans reset at higher rates. As a result, a rash of subprime mortgage foreclosures occurred and several major subprime mortgage lenders filed for bankruptcy. As these events unfolded, speculative investors seized upon negative reports in the media and began shorting securities and other financial instruments based on the ABX Indices as a means of expressing their negative views of the US housing market. The ABX Indices represent swaps whose returns are derived from underlying credit default swaps of the 20 representative subprime mortgage securitizations issued in the United States over a 6 month timeframe. These swaps are based on the underlying deal tranches segregated by credit quality. A combination of thin volume and largely one-way hedge fund trading activity led to illiquidity and extreme market volatility in securities and other financial instruments based upon the ABX Indices.

The subprime mortgage market further deteriorated in June and July of this year. In June, widely-publicized news of problems in two hedge funds caused Wall Street creditors to seize collateral, including large pools of mortgage-backed securities. The creditors' attempts to liquidate these mortgage-backed securities placed added pressure on asset values and credit spreads in the subprime mortgage market. In July, the downgrading and watch listing of securities secured by subprime mortgages by Moody's and Standard and Poor's triggered a significant and sustained unwinding of leverage and sales of securities.

Impact on SSgA's Portfolios

These market events and the subsequent downward pressure on valuations in the subprime mortgage market have resulted in varying degrees of negative performance in several of SSgA's active fixed income strategies and active derivative-based strategies. Most notably, the Limited Duration Bond Strategy has experienced significant negative performance due to its exposure to the ABX Indices. The Limited Duration Bond Strategy experienced negative performance in the first quarter of 2007 as a result of technical pressures (hedge fund selling) and spread widening in BBB-rated securities secured by subprime mortgages. The Limited Duration Bond Strategy experienced even more pronounced negative performance in the second quarter of 2007 as spread widening moved up the capital structure to AAA and AA-rated securities secured by subprime mortgages. Other active fixed income and active derivative-based strategies have been affected to varying degrees by the problems in the subprime mortgage market as a result of having exposure to the Limited Duration Bond Strategy or due to other active positions affected by the aforementioned market events.

The impact of the problems in the subprime mortgage market has had the following impact on your investments with SSgA:

DRAFT

[If your Client is invested in either the: (a) Enhanced Dow Jones-AIG Commodities Futures Strategy, (b) US Pooled Asset Liability Matching Solution (PALMS) or (c) Equities Plus Strategy insert the applicable paragraph(s) here.]

[Enhanced Dow Jones-AIG Commodities Futures Strategy

The Enhanced Dow Jones-AIG Commodities Futures Strategy utilizes futures and total return swaps to gain exposure to the 19 commodity futures contracts in the 5 major commodity groups that comprise the DJ-AIG Commodity Index. The collateral pool is invested in the Limited Duration Bond Strategy. The Enhanced Dow Jones-AIG Commodities Futures Strategy has experienced significant negative performance primarily due to the performance of the underlying collateral pool which is invested in the Limited Duration Bond Strategy.]

[US Pooled Asset Liability Matching Solution (PALMS)

The collateral pool for our US PALMS is invested in an enhanced US Dollar 3 Month LIBOR strategy. This enhanced strategy has discretion to allocate dynamically between the Limited Duration Bond Strategy and the Short Term Investment Fund (STIF). While this enhanced strategy is currently 100% invested in the STIF fund, at times the strategy has allocated up to 70% of cash collateral to the Limited Duration Bond Strategy. The allocation has declined over time and averaged approximately 40% during the second quarter of 2007. As a result of its exposure to the Limited Duration Bond Fund Strategy, the US PALMS strategy has underperformed its custom swaps benchmark.]

[Equities Plus Strategy

The Equities Plus strategy invests in futures and total return swaps to achieve exposure to the S&P 500 index. The collateral pool is invested in the Limited Duration Bond Strategy. The Equities Plus Strategy has experienced significant negative performance primarily due to the performance of the underlying collateral pool which is invested in the Limited Duration Bond Strategy.]

The [INSERT FUND NAME] has returned [INSERT YTD FUND PERFORMANCE] as of the end of July 2007 versus the [INSERT APPLICABLE BENCHMARK] which has returned [INSERT BENCHMARK YTD PERFORMANCE] as of the end of July. These performance returns are preliminary and unaudited. This performance information is being provided solely for the private use by SSgA clients and is not intended for public dissemination.

Actions Taken

We believe that what has occurred in the subprime mortgage market to date this year has been more driven by liquidity and leverage issues than long term fundamentals. Additionally, the downdraft in valuations has had a significant impact on the risk profile of our portfolios, prompting us to take steps to seek to reduce risk across the affected portfolios. To date, in the Limited Duration Bond Strategy, we have reduced a significant portion of our BBB-rated securities and we have sold a significant amount of our AAA-rated cash positions. Additionally, AAA-rated exposure has been reduced as some total return swaps rolled off at month end. The actions we have taken in the Limited Duration Bond Strategy will simultaneously seek to reduce risk in other SSgA active fixed income and active derivative-based strategies have been affected to varying degrees by the problems in the subprime mortgage market as a result of having exposure to the Limited Duration Bond Strategy.

DRAFT

SSgA prides itself on its outstanding client service and client communications. While these events may be unsettling, our experience investment team has weather other storms in the past. Please do not hesitate to call me should you have additional questions or concerns, especially during this fluctuating market environment.

[INSERT SIGNATURE]

EXHIBIT 38

From: Luster, Jodi
Sent: Thursday, August 02, 2007 4:30 PM
To: Carlson, Larry; Mavro, Nicholas; Thornton, Vincent
Cc: Cullinane, Charles
Subject: Client Letter

Attachments: Subprime Update (SSgA Legal).doc.zip

Hi Larry,
I've attached the revised letter which incorporates our comments from our discussion this morning. Please let me know if you have any questions.

Thank you,
Jodi



Subprime Update
(SSgA Legal).d...

DRAFT

August 2, 2007

[INSERT SALUATION]:

We would like to take this opportunity to provide you with further information regarding the impact the problems in the subprime mortgage market have had on several of SSgA's active fixed income and active derivative-based strategies.

Recap of Recent Market Events

Beginning in late 2006 and continuing into 2007, delinquencies on subprime mortgage loans increased as credit blemished borrowers began to struggle to make payments as their mortgage loans reset at higher rates. As a result, a rash of subprime mortgage foreclosures occurred and several major subprime mortgage lenders filed for bankruptcy. As these events unfolded, speculative investors seized upon negative reports in the media and began shorting securities and other financial instruments based on the ABX Indices as a means of expressing their negative views of the US housing market. The ABX Indices represent swaps whose returns are derived from underlying credit default swaps of the 20 representative subprime mortgage securitizations issued in the United States over a 6 month timeframe. These swaps are based on the underlying deal tranches segregated by credit quality. A combination of thin volume and largely one-way hedge fund trading activity led to illiquidity and extreme market volatility in securities and other financial instruments based upon the ABX Indices.

The subprime mortgage market further deteriorated in June and July of this year. In June, widely-publicized news of problems in two hedge funds caused Wall Street creditors to seize collateral, including large pools of mortgage-backed securities. The creditors' attempts to liquidate these mortgage-backed securities placed added pressure on asset values and credit spreads in the subprime mortgage market. In July, the downgrading and watch listing by Moody's and Standard and Poor's of securities secured by subprime mortgages triggered a significant and sustained unwinding of leverage and sales of securities.

Impact on SSgA's Portfolios

These market events and the subsequent downward pressure on valuations in the subprime mortgage market have resulted in varying degrees of negative performance in several of SSgA's active fixed income strategies and active derivative-based strategies. Most notably, the Limited Duration Bond Strategy has experienced significant negative performance due to its exposure to the ABX Indices. The Limited Duration Bond Strategy experienced negative performance in the first quarter of 2007 as a result of technical pressures (hedge fund selling) and spread widening in BBB-rated securities secured by subprime mortgages. The Limited Duration Bond Strategy experienced even more pronounced negative performance in the second quarter of 2007 as spread widening moved up the capital structure to AAA and AA-rated securities secured by subprime mortgages. Other active fixed income and active derivative-based strategies have been affected to varying degrees by the problems in the subprime mortgage market as a result of having exposure to the Limited Duration Bond Strategy or due to other active positions affected by the aforementioned market events.

The impact of the problems in the subprime mortgage market has had the following impact on your investments with SSgA:

DRAFT

[If your Client is invested in either the: (a) Enhanced Dow Jones-AIG Commodities Futures Strategy, (b) US Pooled Asset Liability Matching Solution (PALMS) or (c) Equities Plus Strategy insert the applicable paragraph(s) here.]

[Enhanced Dow Jones-AIG Commodities Futures Strategy

The Enhanced Dow Jones-AIG Commodities Futures Strategy utilizes futures and total return swaps to gain exposure to the 19 commodity futures contracts in the 5 major commodity groups that comprise the DJ-AIG Commodity Index. The collateral pool is invested in the Limited Duration Bond Strategy. The Enhanced Dow Jones-AIG Commodities Futures Strategy has experienced significant negative performance primarily due to the performance of the underlying collateral pool which is invested in the Limited Duration Bond Strategy.]

[US Pooled Asset Liability Matching Solution (PALMS)

The collateral pool for our US PALMS is invested in an enhanced US Dollar 3 Month LIBOR strategy. This enhanced strategy has discretion to allocate dynamically between the Limited Duration Bond Strategy and the Short Term Investment Fund (STIF). While this enhanced strategy is currently 100% invested in the STIF fund, at times the strategy has allocated up to 70% of cash collateral to the Limited Duration Bond Strategy. The allocation has declined over time and averaged approximately 40% during the second quarter of 2007. As a result of its exposure to the Limited Duration Bond Fund Strategy, the US PALMS strategy has underperformed its custom swaps benchmark.]

[Equities Plus Strategy

The Equities Plus strategy invests in futures and total return swaps to achieve exposure to the S&P 500 index. The collateral pool is invested in the Limited Duration Bond Strategy. The Equities Plus Strategy has experienced significant negative performance primarily due to the performance of the underlying collateral pool which is invested in the Limited Duration Bond Strategy.]

The [INSERT FUND NAME] has returned [INSERT YTD FUND PERFORMANCE] as of the end of July 2007 versus the [INSERT APPLICABLE BENCHMARK] which has returned [INSERT BENCHMARK YTD PERFORMANCE] as of the end of July. These performance returns are preliminary and unaudited. The index performance figures are calculated in U.S. dollars and reported on a gross basis. Fees, including but not limited to the advisory fee, transaction and custody charges, would reduce the return. The index returns reflect all items of income, gain and loss and the reinvestment of dividends and other income. SSgA uses reasonable efforts to obtain information from sources which it believes to be reliable; however, SSgA makes no representation that the [INSERT NAME OF BENCHMARK] performance information is accurate, reliable or complete. Past performance is no guarantee of future results. This performance information is being provided solely for the private use by SSgA clients and is not intended for public dissemination.

Actions Taken

We believe that what has occurred in the subprime mortgage market to date this year has been more driven by liquidity and leverage issues than long term fundamentals. Additionally, the downdraft in valuations has had a significant impact on the risk profile of our portfolios, prompting us to take steps to seek to reduce risk across the affected portfolios. To date, in the Limited Duration Bond Strategy, we have reduced a significant portion of our BBB-rated securities and we have sold a significant amount of our AAA-rated cash positions. Additionally, AAA-rated exposure has been reduced as some total return swaps rolled off at month end. The actions we have taken in the Limited Duration Bond Strategy will simultaneously seek to reduce

DRAFT

risk in other SSgA active fixed income and active derivative-based strategies have been affected to varying degrees by the problems in the subprime mortgage market as a result of having exposure to the Limited Duration Bond Strategy.

SSgA prides itself on its outstanding client service and client communications. While these events may be unsettling, our experience investment team has weather other storms in the past. Please do not hesitate to call me should you have additional questions or concerns, especially during this fluctuating market environment.

[INSERT SIGNATURE]

EXHIBIT 39

-

From: Kohler, Adele [Adele_Kohler@ssga.com]
Sent: Tuesday, July 31, 2007 11:20 PM
To: Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Flannery, John; Brown, Marc
Subject: Client Letter for Month-end Performance - Draft
Attachments: Subprime Update 20070731 v2.doc.zip

<<Subprime Update 20070731 v2.doc.zip>>

Please see the draft of the client letter for tomorrow. I will be out tomorrow and Thursday for a mandatory training session but will be in touch via blackberry and can potentially return to the office if needed.

Mitch please take a look and communicate any concerns to Nick Mavro and Larry Carlson as they will run with this tomorrow.

Adele Kohler, CFA

Senior Managing Director

Product Development and Product Engineering

Phone 617.664.6096

adele_kohler@ssga.com

Dear XX,

We would like to provide you with an update regarding impact of problems in the subprime mortgage market on SSgA's fixed income strategies.

Recap of Recent Market Events

Beginning in late 2006 and continuing into 2007, defaults on subprime loans increased as so-called "risky" borrowers began to struggle to make payments as their loans reset at higher rates. A rash of subprime mortgage foreclosures occurred and several major subprime mortgage lenders filed for bankruptcy. As these events unfolded, speculative investors seized upon negative reports in the media and began using the triple B and triple B minus ABX Indices as a means of expressing negative views (i.e. shorting) on the US housing market. (This index is a basket Credit Default Swaps on 20 large securitizations in a particular credit rating and represents one of the few options for expressing views on subprime mortgages through an exchange traded vehicle.) A combination of thin volume and one-way hedge fund activity led to extreme market volatility and illiquidity in these exposures.

Markets were further rattled in June of this year when news of problems in two Bear Stearns hedge funds caused Wall Street creditors to cease collateral - primarily of mortgage-backed securities. Their attempts to liquidate these hedge fund assets put new pressure on asset values and credit spreads in the market.

Most recently in July, the announcement by Moody's and Standard and Poor's to consider downgrading \$12 billion worth of securities backed by subprime mortgages triggered a significant and sustained unwinding of leverage and sales of securities.

Impact on SSgA's Portfolios

These events and the subsequent downward pressure on valuations have resulted in varying degrees of underperformance in several of SSgA's fixed income strategies. Most notably, the Limited Duration Bond Fund has experienced significant performance shortfall due to exposure to the triple B ABX index in the first half of the year and more pronounced underperformance as spread widening has moved up the capital structure to triple and double A rated securities secured by subprime mortgages. Other active fixed income strategies have been affected as well as a result of holding units in the Limited Duration Bond Fund or due to other active positions affected by the aforementioned market events. Finally, SSgA manages strategies outside of the fixed income department for which Limited Duration Bond Fund is used as an alpha source. These strategies have also underperformed.

The specific impact on your portfolios is as follows:

You are invested in funds a, b, c. Preliminary and unaudited performance results through July are _____. **Relationship Manager to take large table include only the relevant return results for their client.**

These paragraphs in blue to be used only for clients in these strategies.

Dow Jones AIG Strategy

The Dow Jones Commodity Index strategy invests in futures and total return swaps to achieve exposure to the 19 commodities futures in the index. Residual cash is invested in the Limited Duration Bond Fund, which employs a relative value approach to identifying opportunistic investments in the short and intermediate sectors of the market. The strategy invests in triple B through triple A securities and has an average quality of AA. The fund has experienced significant performance shortfall due to its exposure to the triple B ABX index in the early part of 2007 and the subsequent impact on higher quality capital structures including double and triple A rated securities. The preliminary and unaudited performance results through July 31st are as follows:

US PALMS

The cash vehicle utilized by our US Pooled Asset Liability Matching Solution (PALMS) is an enhanced US Dollar 3 Month LIBOR strategy. This enhanced strategy has discretion to allocate dynamically between the Limited Duration Bond Fund and the Short Term Investment Fund (STIF). While this enhanced strategy is currently 100% invested in the STIF fund, at times the strategy has allocated up to 70% to the Limited Duration Bond Fund. The allocation has declined over time and averaged approximately 40% during the second quarter of 2007. As a result of its exposure to LDBF, the US PALMS strategy has underperformed its custom swaps benchmark. The preliminary and unaudited performance results through July 31st are as follows:

Equities Plus Strategy

The Equities Plus strategy invests in futures and total return swaps to achieve exposure to the S&P 500 index. Residual cash is invested in the Limited Duration Bond Fund, which employs a relative value approach to identifying opportunistic investments in the short and intermediate sectors of the market. The strategy invests in triple B through triple A securities and has an average quality of AA. The fund has experienced significant performance shortfall due to its exposure to the triple B ABX index in the early part of 2007 and the subsequent impact on higher quality capital structures including double and triple A rated securities. The preliminary and unaudited performance results through July 31st are as follows:

Actions Taken

While we believe that events over the past several months have been largely the result of liquidity and leverage issues, versus long-term fundamentals, we are also aware that the downdraft in valuations have had a significant impact on the risk profile of our portfolios and thus we have taken steps to reduce risk across the affected portfolios. Within the Limited Duration Bond Fund we have reduced exposure to a significant portion of triple B securities, we have sold a large amount of our triple A cash positions and will be reducing additional triple A exposure as total return swaps roll off at month end. These actions will simultaneously serve to reduce risk in other SSGA strategies that hold units of the Limited Duration Bond Fund.

We will continue to keep you informed during this very fluid market environment. Please do not hesitate to call me should you have additional questions or concerns.

EXHIBIT 40

From: Shames, Mitchell
Sent: Wednesday, August 01, 2007 12:12 AM
To: Elizabeth Shea Fries
Subject: FW: Client Letter for Month-end Performance - Draft

Attachments: Subprime Update 20070731 v2.doc.zip

This is the proposed letter for tomorrow. I haven't looked at it yet.

I'll get you the other letter tomorrow.

Mitch .

From: Kohler, Adele
Sent: Tuesday, July 31, 2007 7:20 PM
To: Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Flannery, John; Brown, Marc
Subject: Client Letter for Month-end Performance - Draft



Subprime Update
20070731 v2.do...

Please see the draft of the client letter for tomorrow. I will be out tomorrow and Thursday for a mandatory training session but will be in touch via blackberry and can potentially return to the office if needed.

Mitch please take a look and communicate any concerns to Nick Mavro and Larry Carlson as they will run with this tomorrow.

Adele Kohler, CFA
Senior Managing Director
Product Development and Product Engineering
Phone 617 664 6096
adele_kohler@ssga.com

EXHIBIT 41

-
From: Flannery, John [Sean_Flannery@ssga.com]
Sent: Wednesday, August 01, 2007 11:39 AM
To: Kohler, Adele; Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Brown, Marc
Subject: RE: Client Letter for Month-end Performance - Draft

All-

See my suggested edits below. The comments on the PLAMS part needs to be verified.

Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Kohler, Adele
Sent: Tuesday, July 31, 2007 7:20 PM
To: Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Flannery, John; Brown, Marc
Subject: Client Letter for Month-end Performance - Draft

<< File: Subprime Update.20070731 v2.doc.zip >>

Please see the draft of the client letter for tomorrow. I will be out tomorrow and Thursday for a mandatory training session but will be in touch via blackberry and can potentially return to the office if needed.

Mitch please take a look and communicate any concerns to Nick Mavro and Larry Carlson as they will run with this tomorrow.

Adele Kohler, CFA

Senior Managing Director

Product Development and Product Engineering

Phone 617.664.6096

adele_kohler@ssga.com

1/21/2008

SS-SEC 103835

EXHIBIT 42

-

From: Flannery, John [Sean_Flannery@ssga.com]
Sent: Wednesday, August 01, 2007 11:53 AM
To: Kohler, Adele; Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Brown, Marc
Subject: RE: Client Letter for Month-end Performance - Draft
Importance: High
Attachments: Subprime Update 20070731 v3.doc.zip

Sorry-

I forgot to include the doc.

<<Subprime Update 20070731 v3.doc.zip>>

Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Kohler, Adele
Sent: Tuesday, July 31, 2007 7:20 PM
To: Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Flannery, John; Brown, Marc
Subject: Client Letter for Month-end Performance - Draft

<< File: Subprime Update 20070731 v2.doc.zip >>

Please see the draft of the client letter for tomorrow. I will be out tomorrow and Thursday for a mandatory training session but will be in touch via blackberry and can potentially return to the office if needed.

Mitch please take a look and communicate any concerns to Nick Mavro and Larry Carlson as they will run with this tomorrow

Adele Kohler, CFA

Senior Managing Director

Product Development and Product Engineering

Phone 617 664 6096

adele_kohler@ssga.com

1/19/2008

SS-SEC 119619

Dear XX,

We would like to provide you with an update regarding impact of problems in the subprime mortgage market on SSgA's fixed income strategies.

Recap of Recent Market Events

Beginning in late 2006 and continuing into 2007, delinquencies on subprime loans increased as so-called "risky" borrowers began to struggle to make payments as their loans reset at higher rates. A rash of subprime mortgage foreclosures occurred and several major subprime mortgage lenders filed for bankruptcy. As these events unfolded, speculative investors seized upon negative reports in the media and began using the triple B and triple B minus ABX Indices as a means of expressing negative views (i.e. shorting) on the US housing market. (This index is a basket Credit Default Swaps on 20 large securitizations in a particular credit rating and represents one of the few options for expressing views on subprime mortgages). A combination of thin volume and one-way hedge fund activity led to extreme market volatility and illiquidity in these exposures.

Deleted: defaults

Markets were further rattled in June of this year when news of problems in two Bear Stearns hedge funds caused Wall Street creditors to cease collateral - primarily of mortgage-backed securities. Their attempts to liquidate these hedge fund assets put new pressure on asset values and credit spreads in the market.

Deleted: through an exchange traded vehicle.

Most recently in July, the announcement by Moody's and Standard and Poor's to consider downgrading \$12 billion worth of securities backed by subprime mortgages triggered a significant and sustained unwinding of leverage and sales of securities.

Impact on SSgA's Portfolios

These events and the subsequent downward pressure on valuations have resulted in varying degrees of underperformance in several of SSgA's fixed income strategies. Most notably, the Limited Duration Bond Fund has experienced significant performance shortfall due to exposure to the triple B ABX index in the first half of the year and more pronounced underperformance as spread widening has moved up the capital structure to triple and double A rated securities secured by subprime mortgages. Other active fixed income strategies have been affected as well as a result of holding units in the Limited Duration Bond Fund or due to other active positions affected by the aforementioned market events. Finally, SSgA manages strategies outside of the fixed income department for which Limited Duration Bond Fund is used as an alpha source. These strategies have also underperformed.

The specific impact on your portfolios is as follows:

You are invested in funds a, b, c. Preliminary and unaudited performance results through July are _____. **Relationship Manager to take large table include only the relevant return results for their client.**

These paragraphs in blue to be used only for clients in these strategies.

Dow Jones AIG Strategy

The Dow Jones Commodity Index strategy invests in futures and total return swaps to achieve exposure to the 19 commodities futures in the index. Residual cash is invested in the Limited Duration Bond Fund, which employs a relative value approach to identifying opportunistic investments in the short and intermediate sectors of the market. The strategy invests in triple B through triple A securities and has an average quality of AA. The fund has experienced significant performance shortfall due to its exposure to the triple B ABX index in the early part of 2007 and the subsequent impact on higher quality capital structures including double and triple A rated securities. The preliminary and unaudited performance results through July 31st are as follows:

US PALMS

The cash vehicle utilized by our US Pooled Asset Liability Matching Solution (PALMS) is an enhanced US Dollar 3 Month LiBOR strategy. This enhanced strategy has discretion to allocate dynamically between the Limited Duration Bond Fund and the Short Term Investment Fund (STIF). While this enhanced strategy is currently 100% invested in the STIF fund, at times the strategy has allocated up to ~~****check this—my understanding is that the funds held 30%, not 70****~~70% to the Limited Duration Bond Fund. The allocation has declined over time and averaged approximately 40% during the second quarter of 2007. As a result of its exposure to LDBF, the US PALMS strategy has underperformed its custom swaps benchmark. The preliminary and unaudited performance results through July 31st are as follows:

Equities Plus Strategy

The Equities Plus strategy invests in futures and total return swaps to achieve exposure to the S&P 500 index. Residual cash is invested in the Limited Duration Bond Fund, which employs a relative value approach to identifying opportunistic investments in the short and intermediate sectors of the market. The strategy invests in triple B through triple A securities and has an average quality of AA. The fund has experienced significant performance shortfall due to its exposure to the triple B ABX index in the early part of 2007 and the subsequent impact on higher quality capital structures including double and triple A rated securities. The preliminary and unaudited performance results through July 31st are as follows:

Actions Taken

While we believe that events over the past several months have indicate some deterioration in longer-term fundamentals, we believe price action has been dominated by the unwinding of leverage in a market segment with sharply reduced liquidity. Additionally, the downdraft in valuations has had a significant impact on the risk profile of our portfolios, prompting us to take steps to reduce risk across the affected portfolios. Within the Limited Duration Bond Fund we have reduced exposure to a significant portion of triple B securities, we have sold a large amount of our triple A cash positions and additional triple A exposure as some total return swaps rolled off at month end. These actions simultaneously serve to reduce risk in other SSgA strategies that hold units of the Limited Duration Bond Fund.

We will continue to keep you informed during this very fluid market environment. Please do not hesitate to call me should you have additional questions or concerns.

Deleted: been largely the result of liquidity and leverage issues, versus long-term fundamentals, we are also aware that
Deleted: have
Deleted: and thus we have taken
Deleted: will be reducing
Deleted: will

EXHIBIT 43

From: Shames, Mitchell
Sent: Wednesday, August 01, 2007 12:38 PM
To: Carlson, Larry
Subject: RE: Fixed Income Update - Where We Are

Larry –

Please make sure that I have the most recent draft. Note, no more changes after my review --- or, if changes are made, I need to get a copy.

Thanks.

Mitch

From: Carlson, Larry
Sent: Wednesday, August 01, 2007 8:00 AM
To: US Sales & Marketing - SSGA; Non-US Sales & Marketing; Adams, Jan; Ross, James; Kohler, Adele; Wands, Michael; Hopkins, James; Zielinski, David; Shegog, Barbara; Ehret, Greg; Reilly, Bernard; Yamamoto, Koji; Wang, Sheau-Yien; Goodlad, Rob; Edgar, Bruce; Sabourin, Denis; Fally, Benoit; Lakhani, Kanesh; Bossi, Josef; Esswein, Klaus; Echiffre, Jean; Bang, Carl
Cc: Brown, Marc; Flannery, John; Johnson, Shawn; Shames, Mitchell
Subject: Fixed Income Update - Where We Are

Good Morning:

We are in the process of finalizing a letter that will be customized and emailed by each US Relationship Manager with the goal of having it letter ready and sent today..... the latest tomorrow.

The first part of the letter will address the markets and performance for July – then each RM will need to customize the remainder of the letter by inserting a paragraph on the Fund(s) in question as well as strategy specific performance.

A few things need to happen first:

- Legal will confirm that the letter is good to send
- We will be running holdings reports of all affected Funds
- Contacts will be pulled from Onyx – primary and secondary and consultant. People need to look at these as soon as they are ready and make sure that 1) all your affected clients are included – get back to Chris if they are not; 2) if a Team Member is out, then the Relationship Manager for each team should work with the Team Leader to make sure that all clients are covered
- RM's will need to decide what contacts to send it to and inform the consultant liaison for each client
- Emails need to be sent from the individual RM so that we don't run the risk of losing the email in a Spam filter.
- All emails need to be kept and logged into Onyx

Other reminders:

- Continue to input communications into Onyx and send feedback to Tracy Cirigliano (suggest putting your comments in an e-mail to Tracy and then copy/paste the e-mail into Onyx)

A challenging time...but we will get through it with everyone's cooperation.

Larry

.....

Larry Carlson
Managing Director
U.S. Relationship Management

State Street Global Advisors
State Street Financial Center
One Lincoln Street, 33rd Floor
Boston, MA 02111-2900
Tel: 617 664-5611
Fax: 617 664-6861
larry_carlson@ssga.com

Please visit us at:
<http://www.ssga.com>

Securities offered through State Street Global Markets, LLC, member NASD, SIPC.

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This e-mail and files transmitted with it are confidential to State Street Global Advisors (SSGA) and are intended solely for the use of the individuals or entity to whom they are addressed. If you have received this e-mail in error, please reply to this message and let the sender know.

EXHIBIT 44

From: Shames, Mitchell
Sent: Wednesday, August 01, 2007 1:59 PM
To: Luster, Jodi
Subject: FW: Client Letter for Month-end Performance - Draft

Importance: High

Attachments: Subprime Update 20070731 v3.doc.zip

From: Flannery, John
Sent: Wednesday, August 01, 2007 7:53 AM
To: Kohler, Adele; Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Brown, Marc
Subject: RE: Client Letter for Month-end Performance - Draft
Importance: High

Sorry-
I forgot to include the doc.



Subprime Update
20070731 v3.do...

Sean P. Flannery
Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Kohler, Adele
Sent: Tuesday, July 31, 2007 7:20 PM
To: Shames, Mitchell; Reardon, Staci; Hopkins, James; Wands, Michael; Carlson, Larry; Mavro, Nicholas
Cc: Flannery, John; Brown, Marc
Subject: Client Letter for Month-end Performance - Draft

<< File: Subprime Update 20070731 v2.doc.zip >>

Please see the draft of the client letter for tomorrow. I will be out tomorrow and Thursday for a mandatory training session but will be in touch via blackberry and can potentially return to the office if needed.

Mitch please take a look and communicate any concerns to Nick Mavro and Larry Carlson as they will run with this tomorrow.

Adele Kohler, CFA
Senior Managing Director
Product Development and Product Engineering

Phone 617 664.6096
adele_kohler@ssga.com

EXHIBIT 45

From: Luster, Jodi
Sent: Wednesday, August 01, 2007 8:01 PM
To: 'efries@goodwinprocter.com'
Cc: Shames, Mitchell
Subject: Edited Letter

Attachments: Subprime Update 20070731 v3 (legal080107).doc.zip

Hi Liz,

I have attached an edited version of the client letter that I believe incorporates the points raised in our discussion this afternoon. Could you please review and let me know whether you have any additional comments or questions.

Thank you,
Jodi

Jodi D. Luster, Esq.
Principal, Counsel
State Street Global Advisors
State Street Financial Center
One Lincoln Street, 31st Floor
Boston, MA 02111
(p) 617-664-7193
(f) 617-664-6273
jodi_luster@ssga.com



Subprime Update
20070731 v3 (l...

Dear XX,

We would like to provide you with an update regarding the impact of problems in the subprime mortgage market on SSgA's fixed income strategies.

Deleted: regarding

Recap of Recent Market Events

Beginning in late 2006 and continuing into 2007, delinquencies on subprime loans increased as so-called "risky" borrowers began to struggle to make payments as their loans reset at higher rates. A rash of subprime mortgage foreclosures occurred and several major subprime mortgage lenders filed for bankruptcy. As these events unfolded, speculative investors seized upon negative reports in the media and began shorting securities on the triple B and triple B minus ABX indices as a means of expressing their negative views of the US housing market. (This index [Which index? The triple B or triple B minus or both?] is comprised of a basket of Credit Default Swaps on 20 large securitizations in a particular credit rating and represents one of the few investment options that can utilize an exchange traded vehicle to invest in subprime mortgages.) [Are there 20 within each index? If so, is 20 the current number or the steady number of securitizations? We should reflect whether 20 is a current or steady number] A combination of thin volume and one-way hedge fund activity led to illiquidity and extreme market volatility in these financial instruments in the indices.

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Markets were further rattled in June of this year when news of problems in two Bear Stearns hedge funds caused Wall Street creditors to seize collateral, including large pools of mortgage-backed securities. Their attempts to liquidate these mortgage-backed securities put new pressure on asset values and credit spreads in the market, even in the context of triple and double A-rated securities secured by subprime mortgages.

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Deleted: hedge fund assets

Most recently in July, the announcement by Moody's and Standard and Poor's to consider downgrading \$12 billion worth of securities backed by subprime mortgages triggered a significant and sustained unwinding of leverage and sales of securities. [Need to confirm whether Moody and/or S&P actually downgraded or watch listed the securities]

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Impact on SSgA's Portfolios

These events and the subsequent downward pressure on valuations have resulted in varying degrees of negative performance in several of SSgA's fixed income strategies. Most notably, common trust and commingled funds that follow the Limited Duration Bond Strategy have experienced significant losses due to exposure to the triple B ABX index in the first half of the year and even larger losses as spread widening has moved up the capital structure to triple and double A-rated securities secured by subprime mortgages. In general, active [and passive? Need to draw distinction between the two if applicable] fixed income strategies have been affected to varying degrees as a result of holding units in the Limited Duration Bond Funds or due to other active positions affected by the aforementioned market events. Finally, SSgA manages strategies outside of the fixed income department for which the Limited Duration Bond Funds are used as an alpha source. These strategies have also underperformed. [Are there any strategies that have been shorting and doing well or not suffering a loss? If so, we need to qualify this point]

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Deleted: more pronounced underperformance

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The specific impact on your portfolios is as follows:

You are invested in funds a, b, c. Preliminary and unaudited performance results through July are _____. Relationship Manager to take large table include only the relevant return results for their client.

These paragraphs in blue to be used only for clients in these strategies.

** Each strategy description should clearly identify the general investment objective and process as well as what we are currently doing in the strategy**
Dow Jones AIG Strategy

The Dow Jones Commodity Index strategy invests in futures and total return swaps to achieve exposure to the 19 commodities futures in the index. [Is 19 a current or stable number? We need to specify] Residual cash is invested in the Limited Duration Bond Funds, which employ a relative value approach to identifying opportunistic investments in the short and intermediate sectors of the market. [All residual cash? A majority of residual cash? We need to specify] The strategy invests in triple B through triple A securities and has an average quality of AA. [Is this a requirement?] The funds have experienced significant losses due to their exposure to the triple B ABX index in the early part of 2007 and the subsequent impact on higher quality capital structures including double and triple A-rated securities. The preliminary and unaudited performance results through July 31st are as follows:

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US PALMS

The cash vehicle utilized by our US Pooled Asset Liability Matching Solution (PALMS) is an enhanced US Dollar 3 Month LIBOR strategy. This enhanced strategy has discretion to allocate dynamically between the Limited Duration Bond Funds and the Short Term Investment Fund (STIF). While this enhanced strategy is currently 100% invested in the STIF fund, at times the strategy has allocated up to [****check this—my understanding is that the funds held 30%, not 70****]70% to the Limited Duration Bond Fund. The allocation has declined over time and averaged approximately 40% during the second quarter of 2007. As a result of its exposure to LDBF, the US PALMS strategy has underperformed its custom swaps benchmark. The preliminary and unaudited performance results through July 31st are as follows:

Equities Plus Strategy

The Equities Plus strategy invests in futures and total return swaps to achieve exposure to the S&P 500 index. Residual cash is invested in the Limited Duration Bond Funds, which employ a relative value approach to identifying opportunistic investments in the short and intermediate sectors of the market. The strategy invests in triple B through triple A securities and has an average quality of AA. The funds have experienced significant performance shortfall due to its exposure to the triple B ABX index in the early part of 2007 and the subsequent impact on higher quality capital structures including double and triple A rated securities. The preliminary and unaudited performance results through July 31st are as follows:

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Actions Taken

While we believe that events over the past several months have indicated some deterioration in longer-term fundamentals, we believe price action has been dominated by the unwinding of leverage in a market segment with sharply reduced liquidity. Additionally, the downdraft in valuations has had a significant impact on the risk profile of our portfolios, prompting us to take steps to seek to reduce risk across the affected portfolios. Overall within the Limited Duration Bond Funds we have sold a significant portion of triple B securities in an effort to improve the overall credit ratings, and we have sold a large amount of our triple A cash positions and additional triple A exposure as some total return swaps rolled off at month end. These actions simultaneously seek to reduce risk in other SSgA strategies that hold units of the Limited Duration Bond Funds. [What are we not selling? Need clarification as to what we did and did not sell.]

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Deleted: keep you informed during this very fluid market environment Please

SSgA prides itself on its outstanding client service and client communications and we continue to monitor all of our portfolios during this very fluid market environment. Please do not hesitate to call me should you have additional questions or concerns, especially during this fluctuating market environment.

Disclosures

EXHIBIT 46

From: Fries, Elizabeth Shea [efries@goodwinprocter.com]
Sent: Thursday, August 02, 2007 10:49 AM
To: Luster, Jodi
Cc: Shames, Mitchell
Subject: Subprime Update 20070731 v3 (legal080107).doc
Attachments: Subprime Update 20070731 v3 (legal080107).doc

<<Subprime Update 20070731 v3 (legal080107).doc>> Jodi: I think it looks good, and have noted just a few thoughts. One thing we did not discuss yesterday is that we should be certain this is exclusively targeted at investors with products that have a NAV based on fair market value. Presumably Stable Value is not affected by price action, and products such as CDOs have probably not realized "losses" at this stage. Please do not hesitate to call if you would like to discuss. Best -Liz

Elizabeth Shea Fries
Goodwin Procter LLP
Exchange Place
Boston, MA 02109
t: 617.570.1559
f: 617.523.1231
m: 617.721.4662
efries@goodwinprocter.com

***** IRS CIRCULAR 230

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EXHIBIT 47

From: Cullinane, Charles
Sent: Thursday, August 02, 2007 3:54 PM
To: Luster, Jodi
Subject: Subprime Letter (Draft)

Attachments: Subprime Update (SSgA Legal).doc.zip

Jodi,

Can you take a read through, insert the additional disclosure language you got from Compliance and then send to Larry, Nick and Vince?

Thanks,
Charlie



Subprime Update
(SSgA Legal).d...

DRAFT

August 2, 2007

[INSERT SALUATION]:

We would like to take this opportunity to provide you with further information regarding the impact the problems in the subprime mortgage market have had on several of SSgA's active fixed income and active derivative-based strategies.

Recap of Recent Market Events

Beginning in late 2006 and continuing into 2007, delinquencies on subprime mortgage loans increased as credit blemished borrowers began to struggle to make payments as their mortgage loans reset at higher rates. As a result, a rash of subprime mortgage foreclosures occurred and several major subprime mortgage lenders filed for bankruptcy. As these events unfolded, speculative investors seized upon negative reports in the media and began shorting securities and other financial instruments based on the ABX Indices as a means of expressing their negative views of the US housing market. The ABX Indices represent swaps whose returns are derived from underlying credit default swaps of the 20 representative subprime mortgage securitizations issued in the United States over a 6 month timeframe. These swaps are based on the underlying deal tranches segregated by credit quality. A combination of thin volume and largely one-way hedge fund trading activity led to illiquidity and extreme market volatility in securities and other financial instruments based upon the ABX Indices.

The subprime mortgage market further deteriorated in June and July of this year. In June, widely-publicized news of problems in two hedge funds caused Wall Street creditors to seize collateral, including large pools of mortgage-backed securities. The creditors' attempts to liquidate these mortgage-backed securities placed added pressure on asset values and credit spreads in the subprime mortgage market. In July, the downgrading and watch listing of securities secured by subprime mortgages by Moody's and Standard and Poor's triggered a significant and sustained unwinding of leverage and sales of securities.

Impact on SSgA's Portfolios

These market events and the subsequent downward pressure on valuations in the subprime mortgage market have resulted in varying degrees of negative performance in several of SSgA's active fixed income strategies and active derivative-based strategies. Most notably, the Limited Duration Bond Strategy has experienced significant negative performance due to its exposure to the ABX Indices. The Limited Duration Bond Strategy experienced negative performance in the first quarter of 2007 as a result of technical pressures (hedge fund selling) and spread widening in BBB-rated securities secured by subprime mortgages. The Limited Duration Bond Strategy experienced even more pronounced negative performance in the second quarter of 2007 as spread widening moved up the capital structure to AAA and AA-rated securities secured by subprime mortgages. Other active fixed income and active derivative-based strategies have been affected to varying degrees by the problems in the subprime mortgage market as a result of having exposure to the Limited Duration Bond Strategy or due to other active positions affected by the aforementioned market events.

The impact of the problems in the subprime mortgage market has had the following impact on your investments with SSgA:

DRAFT

[If your Client is invested in either the: (a) Enhanced Dow Jones-AIG Commodities Futures Strategy, (b) US Pooled Asset Liability Matching Solution (PALMS) or (c) Equities Plus Strategy insert the applicable paragraph(s) here.]

[Enhanced Dow Jones-AIG Commodities Futures Strategy

The Enhanced Dow Jones-AIG Commodities Futures Strategy utilizes futures and total return swaps to gain exposure to the 19 commodity futures contracts in the 5 major commodity groups that comprise the DJ-AIG Commodity Index. The collateral pool is invested in the Limited Duration Bond Strategy. The Enhanced Dow Jones-AIG Commodities Futures Strategy has experienced significant negative performance primarily due to the performance of the underlying collateral pool which is invested in the Limited Duration Bond Strategy.]

[US Pooled Asset Liability Matching Solution (PALMS)

The collateral pool for our US PALMS is invested in an enhanced US Dollar 3 Month LIBOR strategy. This enhanced strategy has discretion to allocate dynamically between the Limited Duration Bond Strategy and the Short Term Investment Fund (STIF). While this enhanced strategy is currently 100% invested in the STIF fund, at times the strategy has allocated up to 70% of cash collateral to the Limited Duration Bond Strategy. The allocation has declined over time and averaged approximately 40% during the second quarter of 2007. As a result of its exposure to the Limited Duration Bond Fund Strategy, the US PALMS strategy has underperformed its custom swaps benchmark.]

[Equities Plus Strategy

The Equities Plus strategy invests in futures and total return swaps to achieve exposure to the S&P 500 index. The collateral pool is invested in the Limited Duration Bond Strategy. The Equities Plus Strategy has experienced significant negative performance primarily due to the performance of the underlying collateral pool which is invested in the Limited Duration Bond Strategy.]

The [INSERT FUND NAME] has returned [INSERT YTD FUND PERFORMANCE] as of the end of July 2007 versus the [INSERT APPLICABLE BENCHMARK] which has returned [INSERT BENCHMARK YTD PERFORMANCE] as of the end of July. These performance returns are preliminary and unaudited. This performance information is being provided solely for the private use by SSgA clients and is not intended for public dissemination.

Actions Taken

We believe that what has occurred in the subprime mortgage market to date this year has been more driven by liquidity and leverage issues than long term fundamentals. Additionally, the downdraft in valuations has had a significant impact on the risk profile of our portfolios, prompting us to take steps to seek to reduce risk across the affected portfolios. To date, in the Limited Duration Bond Strategy, we have reduced a significant portion of our BBB-rated securities and we have sold a significant amount of our AAA-rated cash positions. Additionally, AAA-rated exposure has been reduced as some total return swaps rolled off at month end. The actions we have taken in the Limited Duration Bond Strategy will simultaneously seek to reduce risk in other SSgA active fixed income and active derivative-based strategies have been affected to varying degrees by the problems in the subprime mortgage market as a result of having exposure to the Limited Duration Bond Strategy.

DRAFT

SSgA prides itself on its outstanding client service and client communications. While these events may be unsettling, our experience investment team has weather other storms in the past. Please do not hesitate to call me should you have additional questions or concerns, especially during this fluctuating market environment.

[INSERT SIGNATURE]

EXHIBIT 48

From: Duggan, Mark
Sent: Tuesday, August 07, 2007 2:38 PM
To: 'efries'
Subject: Per my voicemail

Attachments: sfltr.pdf.zip



sfltr.pdf.zip (199
KB)

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CONFIDENTIAL - DATA

EXHIBIT 49

From: Flannery, Sean [Sean_Flannery@ssga.com]
Sent: Wednesday, August 08, 2007 11:59 AM
To: Duggan, Mark
Cc: Reardon, Staci; Carlson, Larry; Kohler, Adele
Subject: Draft of CIO letter
Attachments: SPF Bond letter v1.doc.zip

Mark et. al.:

Attached is the final draft version of the document we have worked on for the past couple of days. Mark, the only change that I made was to change the time reference in the first line to say the last two months since there has been deterioration since month end.

I also want to draw your attention to the 3rd paragraph on the second page where I say we think it is unwise to sell under the current conditions. We softened the language on the last page as agreed, but I want to make sure you are comfortable with this as well. As you know, my preference would be to leave that in.

When you approve the final version, and assuming Staci and Larry are OK with this I think we should then run it past Bill and Mark. I do think we need to hear from relationship management as to how valuable this letter is (or is not) and to whom and under what circumstances we would send it. I will rely on Staci and Larry to advise re anyone else in SSgA that needs to review this letter or send it.

<<SPF Bond letter v1.doc.zip>>

Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

1/19/2008

SS-SEC 118355

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C M A D W I L

EXHIBIT 50

From: Duggan, Mark
Sent: Tuesday, August 07, 2007 2:38 PM
To: 'efries'
Subject: Per my voicemail

Attachments: sfltr.pdf.zip



sfltr.pdf.zip (199
KB)

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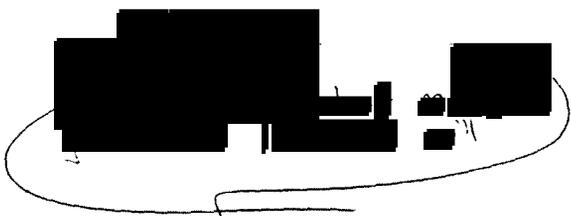
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CONFIDENTIAL

EXHIBIT 51

From: Duggan, Mark [Mark_Duggan@ssga.com]
Sent: Thursday, August 09, 2007 10:53 PM
To: Grove, Hannah M; Hunt, William W; Flannery, Sean; Brown, Marc
Subject: Client Communication
Attachments: SPF Bond letter v1.doc.zip

Hannah:

Attached is a close to final draft of a letter we propose to send to all clients affected by the Limited Duration Bond Funds. We are all OK with it, but wanted your thoughts. We are trying to send it out Friday. Thanks.

Mark

<<SPF Bond letter v1.doc.zip>>

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C M D N I L D A

EXHIBIT 52

From: Duggan, Mark [Mark_Duggan@ssga.com]
Sent: Sunday, August 12, 2007 9:33 PM
To: Flannery, Sean; Carlson, Larry
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

Redacted:
Privilege

From: Flannery, Sean
Sent: Sunday, August 12, 2007 5:32 PM
To: Carlson, Larry
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

Larry-

Redacted:
Privilege

Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Carlson, Larry
Sent: Sunday, August 12, 2007 5:29 PM
To: Flannery, Sean
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: FW: Here is the letter

Hi Sean:

Redacted:
Privilege

1/19/2008

SS-SEC 103659

Redacted:
Privilege

Larry

.....

Larry Carlson
Managing Director
U.S. Relationship Management
State Street Global Advisors
State Street Financial Center
One Lincoln Street, 33rd Floor
Boston, MA 02111-2900

Tel: 617 664-5611
Fax: 617 664-6861
larry_carlson@ssga.com

Please visit us at: <http://www.ssga.com>

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From: Brown, Marc
Sent: Friday, August 10, 2007 11:32 AM
To: Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Cc: Flannery, Sean; Ehret, Greg
Subject: Here is the letter

<< File: SPF Bond letter v3.doc.zip >>

1/19/2008

SS-SEC 103660

From: Duggan, Mark [Mark_Duggan@ssga.com]
Sent: Sunday, August 12, 2007 9:33 PM
To: Flannery, Sean; Carlson, Larry
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

I was thinking the exact same change. I would also delete the first "have".

From: Flannery, Sean
Sent: Sunday, August 12, 2007 5:32 PM
To: Carlson, Larry
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

Larry-

I think I have this right—you are wondering how we can change the last paragraph for those clients who have already left us—right?

If that is the case I would simply change as indicated below (subject to Legal's approval):

We are keenly aware of the trust you have placed in us to manage these portfolios and regret any distress these events and our recent performance may have caused you. As we have throughout our 30-year history, we will continue to work very hard to manage through this current challenging situation with our clients' best interests at the forefront

Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Carlson, Larry
Sent: Sunday, August 12, 2007 5:29 PM
To: Flannery, Sean
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: FW: Here is the letter

Hi Sean:

Is this the final "approved version"?

Also, we will need a "slightly revised" version for clients that have terminated us and are no longer clients as the fixed income strategy was the only investment they had with us.

I think this last paragraph needs to be slightly different for these clients as no longer use us?

We are keenly aware of the trust you have placed in us to manage these portfolios and regret any distress these events and our recent performance may have caused you. As we have throughout our 30-year

1/19/2008



history, we will continue to work very hard to manage through this current challenging situation with your best interests at the forefront

Larry

.....

Larry Carlson
Managing Director
U.S. Relationship Management
State Street Global Advisors
State Street Financial Center
One Lincoln Street, 33rd Floor
Boston, MA 02111-2900

Tel: 617 664-5611
Fax: 617 664-6861
larry_carlson@ssga.com

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From: Brown, Marc
Sent: Friday, August 10, 2007 11:32 AM
To: Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Cc: Flannery, Sean; Ehret, Greg
Subject: Here is the letter

<< File: SPF Bond letter v3.doc.zip >>

EXHIBIT 53

From: Duggan, Mark [Mark_Duggan@ssga.com]
Sent: Sunday, August 12, 2007 9:38 PM
To: Carlson, Larry; Flannery, Sean
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

**Redacted:
Privilege**

From: Carlson, Larry
Sent: Sunday, August 12, 2007 5:36 PM
To: Duggan, Mark; Flannery, Sean
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

**Redacted:
Privilege**

Larry

.....
Larry Carlson
Managing Director
U.S. Relationship Management
State Street Global Advisors
State Street Financial Center
One Lincoln Street, 33rd Floor
Boston, MA 02111-2900

Tel: 617 664-5611
Fax: 617 664-6861
larry_carlson@ssga.com

Please visit us at: <http://www.ssga.com>

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1/19/2008

SS-SEC 103661

From: Duggan, Mark
Sent: Sunday, August 12, 2007 5:33 PM
To: Flannery, Sean; Carlson, Larry
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

**Redacted:
Privilege**

From: Flannery, Sean
Sent: Sunday, August 12, 2007 5:32 PM
To: Carlson, Larry
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

Larry-

**Redacted:
Privilege**

Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Carlson, Larry
Sent: Sunday, August 12, 2007 5:29 PM
To: Flannery, Sean
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: FW: Here is the letter

Hi Sean:

**Redacted:
Privilege**

Larry

1/19/2008

.....

Larry Carlson
Managing Director
U.S. Relationship Management
State Street Global Advisors
State Street Financial Center
One Lincoln Street, 33rd Floor
Boston, MA 02111-2900

Tel: 617 664-5611
Fax: 617 664-6861
larry_carlson@ssga.com

Please visit us at: <http://www.ssga.com>

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From: Brown, Marc
Sent: Friday, August 10, 2007 11:32 AM
To: Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Cc: Flannery, Sean; Ehret, Greg
Subject: Here is the letter

<< File: SPF Bond letter v3.doc.zip >>

From: Duggan, Mark [Mark_Duggan@ssga.com]
Sent: Sunday, August 12, 2007 9:38 PM
To: Carlson, Larry; Flannery, Sean
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

I'm good.

From: Carlson, Larry
Sent: Sunday, August 12, 2007 5:36 PM
To: Duggan, Mark; Flannery, Sean
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

Thanks ...one last comment.

In the first paragraph, I think we want to insert "of" as I have below?

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Larry

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Larry Carlson
Managing Director
U.S. Relationship Management
State Street Global Advisors
State Street Financial Center
One Lincoln Street, 33rd Floor
Boston, MA 02111-2900

Tel: 617 664-5611
Fax: 617 664-6861
larry_carlson@ssga.com

Please visit us at: <http://www.ssga.com>

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1/19/2008

From: Duggan, Mark
Sent: Sunday, August 12, 2007 5:33 PM
To: Flannery, Sean; Carlson, Larry
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

I was thinking the exact same change. I would also delete the first "have".

From: Flannery, Sean
Sent: Sunday, August 12, 2007 5:32 PM
To: Carlson, Larry
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

Larry-

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Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Carlson, Larry
Sent: Sunday, August 12, 2007 5:29 PM
To: Flannery, Sean
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: FW: Here is the letter

Hi Sean:

Is this the final "approved version"?

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1/19/2008

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From: Brown, Marc
Sent: Friday, August 10, 2007 11:32 AM
To: Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Cc: Flannery, Sean; Ehret, Greg
Subject: Here is the letter

<< File: SPF Bond letter v3.doc.zip >>

EXHIBIT 54

From: Duggan, Mark [Mark_Duggan@ssga.com]
Sent: Sunday, August 12, 2007 9:53 PM
To: Flannery, Sean
Subject: Fw: Here is the letter

Attachments: SPF Bond letter v4_lostclient.doc.zip; SPF Bond letter v4_lostclient.doc.zip



SPF Bond letter
v4_lostclient....



SPF Bond letter
v4_lostclient....

How many times do we have to sign off???

-----Original Message-----

From: Carlson, Larry
To: Duggan, Mark; Flannery, Sean
CC: Reardon, Staci; Fitzgerald, Maureen
Sent: Sun Aug 12 17:46:27 2007
Subject: RE: Here is the letter

Ok...one last look at the drafts:

1) for clients that still have assets with <<SPF Bond letter v4_lostclient.doc.zip>> us:

<<SPF Bond letter v4_lostclient.doc.zip>>

2) for clients t <<SPF Bond letter v4_lostclient.doc.zip>> hat have terminated us <<SPF Bond letter v4_lostclient.doc.zip>>

Please see greeting and sign off.

Thanks.

Larry

Larry Carlson
Managing Director
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To: Carlson, Larry; Flannery, Sean

Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

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Subject: RE: Here is the letter

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Sent: Sunday, August 12, 2007 5:33 PM
To: Flannery, Sean; Carlson, Larry
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

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From: Flannery, Sean
Sent: Sunday, August 12, 2007 5:32 PM
To: Carlson, Larry
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

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Sean P. Flannery
Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Carlson, Larry
Sent: Sunday, August 12, 2007 5:29 PM
To: Flannery, Sean
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: FW: Here is the letter

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From: Brown, Marc

Sent: Friday, August 10, 2007 11:32 AM
To: Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Cc: Flannery, Sean; Ehret, Greg
Subject: Here is the letter

<< File: SPF Bond letter v3.doc.zip >>

[REDACTED]

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[REDACTED] [REDACTED]

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[REDACTED]

pe e g deta c our Strategy and perspective on et co s
will provide some ext through which to view and
events.

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[REDACTED] current challenging [REDACTED]

[REDACTED]

[REDACTED]

EXHIBIT 55

From: Duggan, Mark [Mark_Duggan@ssga.com]
Sent: Monday, August 13, 2007 2:38 PM
To: Carlson, Larry; Reardon, Staci; Flannery, Sean; Fitzgerald, Maureen
Subject: RE: Here is the letter

There should be an apostrophe after "clients" in the last sentence.

From: Carlson, Larry
Sent: Sunday, August 12, 2007 5:46 PM
To: Duggan, Mark; Flannery, Sean
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

Redacted:
Privilege

1)

Redacted:
Privilege

<< File: SPF Bond letter v4_lostclient.doc.zip >>

2)

Redacted:
Privilege

<< File: SPF Bond letter v4_lostclient.doc.zip >>

Redacted:
Privilege

Thanks.

Larry

.....

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Tel: 617 664-5611
Fax: 617 664-6861
larry_carlson@ssga.com

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SS-SEC 103667

From: Duggan, Mark
Sent: Sunday, August 12, 2007 5:38 PM
To: Carlson, Larry; Flannery, Sean
Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

**Redacted:
Privilege**

From: Carlson, Larry
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To: Duggan, Mark; Flannery, Sean
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**Redacted:
Privilege**

Larry

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From: Duggan, Mark
Sent: Sunday, August 12, 2007 5:33 PM
To: Flannery, Sean; Carlson, Larry

1/19/2008

Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

**Redacted:
Privilege**

From: Flannery, Sean
Sent: Sunday, August 12, 2007 5:32 PM
To: Carlson, Larry
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

Larry-

**Redacted:
Privilege**

Sean P. Flannery

Exec Vice President and Chief Investment Officer, Americas

Sean_Flannery@ssga.com

From: Carlson, Larry
Sent: Sunday, August 12, 2007 5:29 PM
To: Flannery, Sean
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: FW: Here is the letter

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**Redacted:
Privilege**

Larry

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1/19/2008

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From: Brown, Marc
Sent: Friday, August 10, 2007 11:32 AM
To: Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Cc: Flannery, Sean; Ehret, Greg
Subject: Here is the letter

<< File: SPF Bond letter v3.doc.zip >>

From: Duggan, Mark [Mark_Duggan@ssga.com]
Sent: Monday, August 13, 2007 2:38 PM
To: Carlson, Larry; Reardon, Staci; Flannery, Sean; Fitzgerald, Maureen
Subject: RE: Here is the letter

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Cc: Reardon, Staci; Fitzgerald, Maureen
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<< File: SPF Bond letter v4_lostclient.doc.zip >>

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To: Flannery, Sean; Carlson, Larry

1/19/2008

Cc: Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

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From: Flannery, Sean
Sent: Sunday, August 12, 2007 5:32 PM
To: Carlson, Larry
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: RE: Here is the letter

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Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
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To: Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Cc: Flannery, Sean; Ehret, Greg
Subject: Here is the letter



<< File: SPF Bond letter v3.doc.zip >>

EXHIBIT 56

From: Carlson, Larry [Larry_Carlson@ssga.com]
Sent: Sunday, August 12, 2007 9:29 PM
To: Flannery, Sean
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: FW: Here is the letter
Attachments: SPF Bond letter v3.doc.zip

Hi Sean:

**Redacted:
Privilege**

Larry

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Larry Carlson
Managing Director
U.S. Relationship Management
State Street Global Advisors
State Street Financial Center
One Lincoln Street, 33rd Floor
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Tel: 617 664-5611
Fax: 617 664-6861
larry_carlson@ssga.com

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From: Brown, Marc
Sent: Friday, August 10, 2007 11:32 AM
To: Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Cc: Flannery, Sean; Ehret, Greg

1/19/2008

SS-SEC 132851

Subject: Here is the letter
<<SPF Bond letter v3.doc.zip>>

1/19/2008

SS-SEC 132852

Dear XX:

Redacted:
Privilege

Redacted:
Privilege

Redacted:
Privilege

From: Carlson, Larry [Larry_Carlson@ssga.com]
Sent: Sunday, August 12, 2007 9:29 PM
To: Flannery, Sean
Cc: Duggan, Mark; Reardon, Staci; Fitzgerald, Maureen
Subject: FW: Here is the letter
Attachments: SPF Bond letter v3.doc.zip

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To: Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Cc: Flannery, Sean; Ehret, Greg

1/19/2008

Subject: Here is the letter

<<SPF Bond letter v3.doc.zip>>

[REDACTED]

C A F E D N T

EXHIBIT 57

From: Hunt, William W
Sent: Thursday, July 26, 2007 2:28 PM
To: Brown, Marc
Cc: Jennifer Keough/USA/StateStreet@StateStreet
Subject: FW: MML story today on limited duration bond fund

Marc,

You need to move quickly on the letter. Pls call me when readied - I want to hear final version. We need to gather the facts, but letter needs to go out by end of business today as this is likely to be picked up on the main wires and we have a reputation to preserve with clients in terms of the trust factor we talked about earlier today.

Hannah is out today and Monday, but she is reachable. Pls. get her contacts. Also, pls make sure she is copied in on e-mails, so she can follow and guide Arlene as one of several SSQA spokespersons.

Thanks, Bill

-----Original Message-----

From: Flannery, John
Sent: Thursday, July 26, 2007 8:01 AM
To: Hunt, William W
Subject: FW: MML story today on limited duration bond fund

Sent using BlackBerry

-----Original Message-----

From: Roberts, Arlene C
To: Flannery, John; Ghara, Michael; Thompson, Michael
Sent: Thu Jul 26 07:22:44 2007
Subject: MML story today on limited duration bond fund

SSQA Bond Fund Whacked By Subprime Losses
- 07/25/2007

State Street Global Advisors' Limited Duration Bond Fund has reportedly lost 3-4% so far this month following a 0.68% loss gross of fees in June. The current losses are word of mouth reports while the June decline comes from performance reports from eVestment Alliance. The fund is invested mostly in subprime mortgage-backed securities and as of March 2007 had \$3 billion in institutional separate accounts.

SSQA's Web site says the strategy also uses derivatives to eliminate interest rate risk and was designed to earn incremental yield over core cash funds and to control downside risk. Its benchmarks are the JPMorgan U.S. 1-Month Cash Index or the Citigroup 3-Month T-Bill. Some of the firm's other active fixed-income and large-cap enhanced index strategies have some exposure to this fund.

Consultants are saying that losing even 1% in a strategy of this sort is terrible and by definition a "limited duration" strategy is supposed to be low-risk and reduce volatility. "It couldn't have been just Bear Stearns that had exposure to subprime," said Steve Holmes, president of Summit Strategies Group, indicating that many managers could have taken a hit.

Michael O'Hara, head of global active fixed-income, who manages the strategy, declined to confirm performance figures. Spokeswoman Arlene Roberts could not immediately provide

ccrment.

Arlene Roberts
Vice President, Public Relations
One Lincoln Street
Boston, MA 02111-2909
617-664-3933 phone
617-664-6316 fax

EXHIBIT 58

From: Hunt, William W <WWHunt@StateStreet.com>
Sent: Wednesday, August 8, 2007 12:06 PM
To: Flannery, Sean <Sean_Flannery@ssga.com>
Subject: Re: CONFIDENTIAL DRAFT OF LETTER TO CLIENTS

Sean,

This is good communication. I need to ask you to hold for another day while I review it in detail. I have some questions re: a few of the messages, and want to discuss with you tomorrow.

Will be back in boston late pm today, and we can connect tomorrow am by phone.

Best regards, Bill

--- Sent from My Blackberry Wireless Handheld ---

-----Original Message-----

From: Flannery, Sean

To: Hunt, William W; Brown, Marc; Brown, Marc

Sent: Wed Aug 08 10:38:04 2007

Subject: CONFIDENTIAL DRAFT OF LETTER TO CLIENTS

CONFIDENTIAL DRAFT ONLY

[REDACTED]

EXHIBIT 59

From: Brown, Marc
Sent: Friday, August 10, 2007 3:32 PM
To: Reardon, Staci; Carlson, Larry; Fitzgerald, Maureen
Cc: Flannery, Sean; Ehret, Greg
Subject: Here is the letter

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